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**HARVEY MANSFIELD
AND VIRTUE IN THE ARID LAND OF MODERN LIBERALISM**

“No cause is ever lost, because none is ever won.”
Thomas Stearns Eliot

Harvey C. Mansfield is one of the most distinguished American political philosophers writing today, standing at the very center of a bitter debate over the ultimate meaning of political life in modernity, and here, arguably the most prominent conservative academic teaching in a major American university. Mansfield is usually described as a conservative, or in recent years as neoconservative, due to the prominence some of his alleged students achieved in the ranks of George W. Bush's administration. But this is a very inadequate label, unless it is intended to mean, in general, that he is not a liberal in the contemporary use of the word in America, and that he has had many students who have achieved public prominence, also in the conservative ranks. Mansfield in a personal description of his thought concurs with being labeled as a conservative, using the equivocal understatement that “some people, with some reason, call [me] a conservative”.¹ But whatever the merits and demerits of such a description, it seems too narrow, and thus woefully incomplete. Mansfield's range of thought and writings is so wide, so versatile, and his presence as a public intellectual commenting on various aspects of contemporary cultural and political life so ubiquitous, that it would be difficult to compress his intellectual and public activities in such a way as to put on it a definite conservative identification.

Mansfield received his B.A. in 1953 and Ph.D. in 1961 in government from Harvard University, and except for a brief stint of teaching at the University of

¹ Autobiographical sketch in a possession of the author of this article.

California at Berkeley in the early 1960s, his entire professional and public career has been connected with Harvard, where he is currently William R. Kennan Jr. Professor of government. At Harvard Mansfield studied with such known political scientists as Carl J. Friedrich and Samuel Beer, but gradually came under the spell of a political philosopher Leo Strauss. In fact he can be counted as one of the most sophisticated thinkers among the Straussian students. They form a distinctive school, an extremely varied, divided one – sometimes bitterly – nevertheless constituting one of the most influential intellectual currents of contemporary political philosophy, in opposition to the so-called political science dominating universities today.

From Leo Strauss Mansfield learned something rarely present among American scholars in political science departments already then, and nearly extinct today, increasingly enamored with their quantitative, computing methods of analysis of things political. These are methods which treat human political activity as an object of scrutiny commensurate somehow with biologists' description of a beehive. He learned an appreciation of a philosophical dimension of politics, ancient and modern, and a deep understanding of the intractable nature of the moral dimension of human action, non-reducible to behavioral reflexes, and non-responsive to the social engineering methods of the modern administrative state. This was an approach treating human nature as a moral entity radically separated, by the very fact of moral reasoning over an essence of its own true existence, from the materialistic image of it.

In such a perspective, modern liberalism as "science", with its corresponding help of social sciences such as positivism, historicism or behavioralism, as a kind of administrative enterprise responding to the exigencies of raw facts of human life in this as sheer animality, looked woefully inadequate. For Strauss it was obvious that the ultimate error of liberalism is ontological and anthropological, not technical, the latter being merely a consequence of the former. Strauss's influence was truly transforming, since he seemed to thwart singlehandedly the corrupting slide of the American approach to politics, society, philosophy and culture into an abyss of positivism, historicism and behavioralism, a depressing end station of Western humanities. Mansfield has contributed immensely to humanities created within the Straussian paradigm, establishing it as a powerful and increasingly legitimate rival to the philosophical and political liberal monism within which positivism, historicism and behavioralism increasingly began to be taken for granted. An understanding of the Straussian paradigm thus seems to be crucial to the very understanding of the magnitude and influence of Mansfield's achievement.

Educational Lightness of Being and the Moral Illegitimacy of the Modern Regime

Mansfield has become in intellectual life one of the most influential Straussians. Teaching at Harvard University, he has influenced a tremendous number of scho-

lars, community organizers and religious people. He has gone against the whole tradition of political science as “science” and against corruption of higher education, its slant towards political correctness and its visible slide in students’ assessments into mediocrity criteria, a crazy assumption about equality as a result and as a right, not as a starting point. In addition Mansfield gradually had to face a certain situation at the university. For him relativism’s attack on free thought, the conviction that absolute tolerance, that is New Tolerance understood as ideology and a ban on all moral distinctions by virtue of excellence, was a grave danger not only to moral education, which per se requires precisely that judgments be made, but a danger to free thought as such. In other words it constituted a danger to human freedom and a declaration that nihilism was the essence of education, supervised of course by those who know exactly at a particular place and time which shape of nihilism and politically correct causes of the moment are fashionable and which, for the time being, excluded from its province.

This constituted an unprecedented slide to barbarism not only of thinking, but barbarism of moral intuition, a rejection of all cultures, religions, moral systems and distinctions fundamental to human Being. To make such distinctions one needs not only rigorous thinking, but also a certain moral gravity, a minimum of solidity, of treating life as a serious thing. There thus has to be a conviction that the world in which we live is worth something, that the world in which we conduct our affairs, the world of our experience had an innate value. This is in essence a groundwork for moral education, that is virtue, understood as a general value, or disposition to derive from the existing reality a sense transcending the senseless existence of the contentious human animal. *Virtus nobilitat*: virtue gives nobility and civilizes. It is at the same time a prerequisite of human bonding, of solidarity, since it assumes the common humanity of all striving towards a goal which transcends immediate, individual pleasures. This is a perspective which claims that there are things worth sacrificing, and things which are worth living for, because of their inner, objective, universal moral value.

Modernity constituted a rebellion against virtue as conceived both by the ancients and *Christianitas*, beginning one of the most fascinating debates in the history of philosophy, education, politics, constituting a major front line of human approaches to reality. The ancients and Christianity, in various ways, took the meaningful and rich notion of nature as a standard for individual persons and human societies, as far as morals and also institutional arrangements were concerned. The moderns, in equally various ways, came to regard nature, exactly at that moment when modern science was accelerating its knowledge of the universe, as something which was either indifferent or even hostile to human beings. As a consequence, nature ceased to be regarded as being any standard of behavior for humans. In other words it provided little or no guidance in human affairs. That meant that morality was to come either from fiat grounded in religious precepts, or, once they were rejected, grounded in an autonomous reason unguided by anything outside of it. As

a result, also all human endeavors, including political ones, acquired an unlimited potential. This potential was limited only by either incapacibilities of reason to overcome its own barriers, or the atrophy of the will to use it and change the world. To wit, since modernity's ascent, everything in reality has been up for grabs, to form it according to precepts born in an autonomous mind. The "self" became sovereign, moral autocreation its servant.

In such a perspective learning is a purely conventional affair, and tolerance of all opinions its natural outcome, with relativism and ultimately nihilism surreptitiously creeping in. Liberal democracy's slide towards relativism and nihilism is an outcome of this general theory of education rooted in modernity's methodology starting with moral autocreation, the last best thing of a desperate mind rejecting moral sense and accepting cosmos's utter meaninglessness. But this slide towards nihilism and relativism is never stated *per se*, openly; it is always wrapped in modern clichés and banalities, sentimentality posing as morality and empathy, to wit a satire posing as drama. It is totally decoupled from the great sagas of humanity, its heroic myths reflecting human essences as something bigger than the immediate desires of the body. These essences are deprived of any sense of a soul, which constituted a definition of human elevation from the animality of the bodily desires, even if justified by reason. It was this human elevation, this incessant urge to look up, in other words to thirst for being better than one is, which created a need for Great Books as repositories of wisdom which never fails. Students not only do not have any image of a solid of a soul bigger than their immediate desires. They do not even imagine, as Allan Bloom observed, that there is such a thing as something bigger than their immediate wants. There is emptiness at the center of their lives and a great proclivity to any idolatry of the body, the soul and the mind, an especially tragic condition, since so easily captured by the cynical, capable of imposing any authority on their confused minds.

Such a condition is not only impoverishing, it is also dangerous. Propelled by this desire of unlimited autocreation of its actors, society has an inexorable tendency to slide towards a cacophony of mere opinions tamed by an administrative, utilitarian policeman, that is a state. Science in the service of will began to give this project efficacy. It was a burning wish to escape from this corrupt, imperfect world. Modernity subconsciously locates "permanent" things always in the future of personal history. Once arriving there, people realize that permanence turns out to be just a fleeting moment in time and in consciousness, convinced that things "permanent" were an illusion, but never giving up locating them in the future again. Modernity in this sense is by its own logic profoundly countercultural, revolutionary. Because of this rebellious disposition of modernity, reality is in a constant danger of being defined by all kinds of daring and cunning usurpers, entrepreneurial, experimenting people using all available ideological, political, economic and moral means to impose their image of the world on the other.

Modernity has thus always been prone to a constant redefinition of reality and human life itself in terms of ideology of a particular time and place in history, even if it has often been understood as an escape from the ravages of it. It has been an incessant attempt to defy and deny reality, and with it man's objective existence in time, a temptation to reject life as such, with a corresponding assault on morality. "Liberation" from life and morality defining the human predicament and giving it a meaningful basis has been its driving logic, a revolt against ontology as such, a consuming fever to save oneself by one's own means, quintessentially baron Münchhausen's dream.

The question of a universal basis of behavior, that is morality justified from outside of the human autonomous "self", loomed here paramount. The problem of morality, thus also virtues shaping character, irrespective of individual choices seeking desires, virtues creating a community of mutual obligations not stemming from a contract or utilitarian means, and thus virtues creating human solidarity as a moral disposition not just as a legal obligation, which is always spurious to sustain that obligation, seemed to be a problem which could not be avoided.

Modernity posed in this context a definite problem for politics and a "regime" in Aristotle's sense of the world. And here we enter a terrain where Mansfield has become one of the most vocal and brilliant intellectual warriors. A "regime" has begun to be looked upon in modernity not as a means to a definite moral end or ends, deemed now impossible to achieve, but rather as a system of institutional arrangements in which individuals could pursue their ideas of happiness, that is their subjective notions of a good life. That means, in practice, that an individual interest coming from the moral autonomy of the "self" defines totality of human existential goals.

A political order is conceived in such an ontological and anthropological vision merely as a neutral arena of the best environment to achieve political stability, with rights expressing different shades of such individual desires. In the contemporary world the latter are increasingly becoming surreptitiously commensurate with human dignity, a situation creating a new anthropological perspective. In its light man becomes someone who is defining himself and demanding unequivocal recognition of such a desire as being equal to his human dignity. A state becomes in such a case a great stabilizer and watchman of a political order, and the rising prominence of judges reflects this desire of an administrative state to recognize this totality of humanity expressed in rights immediately.² But such rights mean essentially interests, and this is where political philosophy turns into political science. Inspired by a famous title of a book by Harold D. Lasswell, published in 1935, *Politics: Who Gets What, When, How?*, political science as Mansfield observes focuses

² See on that for instance: P. Manent, *A World Beyond Politics?: A Defence of the Nation State*, Princeton 2006, p. 98–129, 171–196; R. Hirsch, *Towards Juristocracy: The Origins and Consequences of the New Constitutionalism*, Cambridge Mass. 2004, p. 1–8, 149–210.

on the benefits you get – what, when, and how. It ought to be on the *who* – on who you think you are and why you are so important as to deserve what you get. Poets (speaking broadly of all literature) and philosophers have the answer or at least address the question; science does not. The ambition of political science to be scientific in the manner of natural science is the reason why it ignores the question of importance. Scientific truth is objective and is no respecter of persons; it regards the concern for importance as a source of bias, the enemy of truth. Individuals in science can claim prizes, nations can take pride in them, but this sort of recognition is outside science, which is in principle and fact a collective, anonymous enterprise. Political science, which by studying politics ought to be sensitive to importance, to the importance of importance, aims to abstract from individual data with names in order to arrive at universal propositions. Yet human beings and their associations always have names; this is how they maintain their individuality. Names mark off the differences between individuals and societies or other groups, and they do so because the differences are important to us. You can think your way to an abstract individual or society without a name, but you cannot be one or live in one. Science is indifferent to proper names, and confines itself to common nouns, but all human life takes place in an atmosphere of proper nouns. “To make a name for yourself,” as we say, is to become important. “To lose your good name,” to suffer a stain on your reputation, is to live thinking less well of yourself, or among others who think less well of you. Does this matter? It appears that human beings like to think they are important. Perhaps they have to think so if they are to live responsibly, for how can you do your duties if they are not ascribed to your name?³

In such a perspective liberal politics becomes reduced, to use the language of social sciences, to preferences, suggesting a momentary or fleeting interest, a convenient desire that can easily be changed and rationally justified, as circumstances, time, or place may demand. But for Mansfield politics is about much deeper and more fundamental human motivations, motivations that liberal democracy has great difficulty explaining and accounting for, motivations which cause all of us to strive for honor, glory, victory, that is something bigger than the immediate security of living. Such goals cannot be reduced to a set of mere “preferences”. A contemporary liberal approach to politics makes it difficult to understand not only culture or cultures, but first of all it excludes a possibility of understanding fundamental aspects of human existence which show themselves in the public space, treating them either as prejudice or a dangerous imposition of private passion illegitimate in the public sphere.

There is no doubt for Mansfield that this is not only an error of judgment, but an error which stems from a liberal anthropology per se which is wrong, limited and in fact dangerous for politics, treating such facts of human existence as honor, pride, love or faith as mere preferences. Reason in such a case reduces itself to scientific, technological, shallow exercises justifying in fact desires, and then construing institutions, education and laws to accommodate such desires, which are left to themselves and cannot be subjected to any process of elevation, sophistication, lifting above the is sheer animality of the momentary. Reason then becomes simply a slave of the rudest kind of desires, in a process defining human existence only by what is immediate and reducing itself to just a utilitarian tool of order. But

³ H. C. Mansfield, *How to Understand Politics: What the Humanities Can Say to Science*, Jefferson Lecture in the Humanities 2007.

desires pertain to animals, and animality recognized as a fact of life from which we start building order not contaminated by metaphysics, the axiom taken for granted by the first moderns like Machiavelli or Hobbes, became in due time all there is to political life and anthropology.

Mansfield is a modern man. He recognizes the sheer pressure of desires and interests on humans, but together with the authors of the *Federalists Papers* and Alexis de Tocqueville he thinks that interest should be, after Tocqueville's phrase, "well understood". This phrase "implies that your right or true or correct interest includes honor and ambition, though they seem contrary to it. But the words *well understood*, translating Tocqueville's *bien entendu*, allow for the possibility that your interest might accommodate or coexist with something contrary to it. Tocqueville does not adopt 'self-interest well understood' on his own account but attributes it to Americans. Following him my ambition is not to supplant the idea of self-interest but only to supplement it with a remainder of what is buried beneath it".⁴ Mansfield applies to this "what is beneath it", that is honor, ambition, pride, courage, moderation, fame, the ancient word *thumos* "which is basic to courage", and delineates its contours in the face of the shallow liberal political or wider, social sciences.⁵

But he is too wise a thinker not to recognize the limitations of this concept for an explanation of human existence, and here he is forced to add to his classical understanding, a metaphysical dimension which is inescapably connected with the Jewish and Christian tradition and their concepts of one personal God. For Mansfield it is obvious that there is a tension between such a classical notion of politics with *thumos* at its centre and this metaphysical dimension, with the former enriching the liberal limited perspective, but still being inadequate to account for the richness of human existence. *Thumos* stems from our inner selves and our achievements, and, however it enlarges our understanding of ourselves and others acting in a public square, it can never account for a deeper urge, in fact a metaphysical one, represented for instance by love and faith, which are simply inexplicable in terms of desires, interests or facts discernable in human life.

Thumos is often at cross purposes with them. As Mansfield writes,

when you open your soul to God, you can be tempted, prompted by *thumos*, to believe that God is on your side, instead of wanting to put yourself on God's side. If only love were by itself, and not hitched to *thumos*, no one would care if his love were not returned. But because of *thumos*, we do care, and often demand it. Needless to say, neither love nor anger at unrequited love can be explained by self-interest.⁶

Metaphysical humility is required. *Thumos*, although extending itself beyond self-interest and pure utilitarian motives, is prone to shape the outside world through the lenses of feelings and love which has a lot to do with the love of one-

⁴ Mansfield replies to his critics, "First Things", December 2007, p. 10.

⁵ H.C. Mansfield, *How to Understand Politics...*

⁶ Mansfield replies to his critics..., p. 10.

self, even if masked in the veil of courage, honor, personal pride defined as importance and recognition, even faith in God.

But the very essence of religious faith – at least Judeo-Christian faith – is that “religion reveals to us that we are important for God because of what God did for us – giving us his law, or redeeming us on the cross – not because of our own achievements”,⁷ but because of God’s grace and our understanding of the very limited time we have here, and our limited abilities to make ultimate sense of our lives. Man in other words cannot explain himself to himself, thus a fairly limited application for such a task in contemporary liberal politics, of concepts enlarging the understanding of human beings beyond sheer utility and self-interest like *thumos*, in which reason itself interacts with self-interest and desire in a way transcending the solitude of human existence. As a consequence it is obvious that not only liberal politics and political philosophy, but any politics and in fact philosophy per se, cannot be the answer to human fulfillment and final emotional rest.

Liberalism has landed itself in an especially precarious situation since it cannot provide any, even limited, justification of its citizens’ existence other than self-interest which is the other side of a glorification of an autonomous self’s desire to create one’s morality by a process of autocrecreation and self-salvation. Liberalism becomes here more a late child of Nietzsche than Kant, whose project of creating objective morality outside of metaphysics, a.k.a. religion failed. But Mansfield is too wise not to be aware that a return to the ancients, to Socrates, Plato or Aristotle, to *thumos* or other virtues, will not do to rectify this fundamental problem at the center of modern liberalism. The ancients themselves sensed that too, yearning for a fulfillment which their own limited philosophical arsenal could not provide, but they readied for it the very culture itself.

Mansfield realizes that modern society cannot escape a predicament the Enlightenment and liberalism allegedly thought themselves capable of transcending. It is this yearning for meaning and metaphysical dimension which simply cannot be done away with, even if sublimated into all kinds of false gods of multitude progressive, mundane causes. The Enlightenment did not do away with any fundamental mysteries of human existence, neither were the ancients capable of doing that with their much more elevated approach to communal and personal life. The Enlightenment, and with it liberalism, are imprisoned within their narrow circle of self-referential arguments, more and more refined and more and more geared to the mild, prosperous and less and less cruel civilization, but at the same time more and more vacuous, when everything can happen and nothing matters. Mansfield is very aware of this void at the centre of the liberal civilization, and although his main concern is rather that of political philosophy and constitutional politics than of a moralist, there is this unexpressed hidden metaphysical dimension to his thought, or an awareness of its lack.

⁷ R. Braque, *Political Misunderstanding*, “First Things”, December 2007, p. 6.

Tocqueville is Mansfield's hero, and it is hard to find better company for understanding modern liberal democracy. But even so, Mansfield shares with Tocqueville this hopelessness which the latter expressed in his most bitter and terrifying comments about pantheism as the religion of despair of the modern man. Political philosophy, irrespective of how much it probes deeper and deeper about the motives of human behavior and how much it searches for the sources of the immutable human conduct stemming from nature, cannot define that nature, cannot impose the ultimate meaning on it. Mansfield would share here an observation with the late Polish philosopher Leszek Kołakowski. Kołakowski is treated by modern liberal thinkers as a religious philosopher, which is imprecise. Although Kołakowski is not necessarily a religious thinker he is definitely a metaphysical philosopher, realizing this unrelieved *horror metaphysicus* lurking beyond the modern liberal mind. He knows, and Mansfield would definitely concur, that the human condition, with all its evil and unintended consequences, with all its glory and greatness, remains inexplicable, incomprehensible, void and senseless and ultimately breeding despair, if it is not looked at through the lenses of the sacred history in time, its story of sin and redemption, of fall and resurrection, of narcissism and human self-importance and love transcending it all. This is this silent, but nevertheless present dimension of Mansfield's efforts, to make the arid liberal civilization of today more congruent with the deeper urges of the human soul and nature, the same urge which provoked the ancients to decouple nature from moral reasoning and set off a search for a meaning of allegedly meaningless and silent cosmos.

Virtue, Moral Freedom and the Liberal Autonomous "Self"

In all walks of life Mansfield has become one of the most politically minded Strausians and most relevant to practical politics, and at the same time one of the most philosophically grounded students of modern politics. He is first of all a political philosopher. In this age of positivism, neo-Marxism, behavioralism and many other -isms, regnant at the humanities and political science departments of major Western universities, to be a classical political philosopher seems a little bit of an oddity, since it assumes certain ontological and anthropological assumptions about the human condition, which modern science, including political science, has allegedly overcome as useless analytical tools. As one of the most challenging critics of contemporary liberalism and modernity living in America, Mansfield tries to recover the truly moral, universal dimension of communal life, and puts at its centre the issue of virtue, difficult to contemplate in this age of individualism.

As a political philosopher, however, Mansfield can be better described, it seems to me, as someone who decided to subject to intellectual scrutiny the false intellectual and moral pretensions of contemporary political science, this modern version of social thought, possibly the most "scientific" pretence of modern mana-

gerial liberalism. It subjects the rich and unpredictable reality of human existence in a polis to mechanical categories of thought and action, exhibiting a hidden desire to treat human beings as pawns in a game to reach a perfect society of ultimate justice and equality according to liberal images of them. These are images of a particular place and time, defined in terms of allegedly objective facts about reality and human existence. They are deemed necessary to attain a “good”, tolerant society, so as to overcome conflict which must allegedly occur when we focus on the truth of human existence, instead of on the utility of such an existence in relation to others in a well administered state. Thus, as Mansfield writes in one of his most succinct, little great books, politics is partisan: it means taking side. Not only are there sides, but they also argue against each other since each side defends

defends its own interests...arguments good or bad, are made with reasons and so aimed implicitly, if not usually, at a reasonable judge. Here is where political philosophy enters. Most people reason badly, but they do reason – and political philosophy starts from this fact. I stress the connection between politics and political philosophy because such a connection is not to be found in the kind of political science that tries to ape the natural science. That political science, which dominates political science departments today, is a rival to political philosophy. Instead of addressing the partisan issues of citizens and politicians, it avoids them and replaces their words with scientific terms. Rather than good, just, and noble, you hear political scientists of this kind speaking of utility or preferences. These terms are meant to be neutral, abstracted from partisan disputes. Instead of serving as judge of what is good, just or noble, such political scientists conceive themselves to be disinterested observers, as if they had no stake in the outcomes of politics. As political scientists, they believe they must suppress their opinions as citizens lest they contaminate their scientific selves. The political philosopher, however, takes a stand with Alexis de Tocqueville (1805–1859), who said that while he himself was not partisan, he undertook to see, not differently, but further than the parties. To sum up: political philosophy seeks to judge political partisans, but to do so it must enter into political debate. It wants to be impartial, or to be a partisan for the whole, for the common good; but that impartiality is drawn from the arguments of the parties themselves by extending their claims and not by standing aloof from them, divided between scientists and citizen, half slave to science, half rebel from it. Being involved in partisan dispute does not make the political philosopher fall victim to relativism, for the relativism so fashionable today is a sort of lazy dogmatism. These relativists refuse to enter into political debate because they are sure even before hearing the debate that it cannot be resolved; they believe like the political scientists they otherwise reject that nothing can be just or good or noble unless everyone agrees. The political philosopher knows for sure that politics will always be debatable, whether the debate is open or suppressed, but that fact – rather welcome when you reflect on it – does not stop him from seeking a common good that might be too good for everyone to agree with. Political philosophy reaches for the best regime, a regime so good that it can hardly exist. Political science advances a theory – in fact a number of theories – that promises to bring agreement and put an end to partisan dispute. The one rises above partisanship, the other, as we shall see, undercuts it.⁸

This separation of political science from political philosophy occurred in the seventeenth century, but the radical separation was part of the positivist movement of the late nineteenth century, when political science declared itself totally distinct and as “science” separate from metaphysical alleged “nonsense”. But political phi-

⁸ H. C. Mansfield Jr., *Political Philosophy*, Wilmington DE 2001, p. 2–9.

losophy, although deeply entrenched, has not disappeared from universities, and the more or less hostile controversy between political science and political philosophy today within university departments stems directly from this earlier rift. Political science has a tendency to consider itself to be dealing with facts, being just descriptive, or empirical, when in its judgment political philosophy was called normative because it expressed values. But such a division occurred even within political science. Soon, especially in the wake of the great 1960s cultural revolution, political science began to accommodate schools which professed their “proper”, non-metaphysical values, as contrasted with the usually “improper”, a.k.a. metaphysical, or essentialist values of political philosophy. The first values were good and needed to be encouraged, for instance participatory democracy of non-discriminative society, the goals towards which the whole apparatus of social sciences was soon to be adjusted.

The controversy rooted originally in the positivist ascendancy in the nineteenth century repeats itself, in Mansfield’s view, in more abstract terms between political science, which is focused on reaching agreement or political order whatever it may be, and political philosophy, which seeks the best regime. In such a case political science likes to stress facts since it thinks it possible to agree on facts as opposed to values which are difficult to reconcile, when political philosophy put forth values or norms because it looks for the best normative order. But when

contrast[ing] political science and political philosophy we are really speaking of two kinds of political philosophy, modern and ancient. To appreciate the political science we have now, we need to look at its rival; to do that, we must enter into the history of political philosophy. We must study the tradition that has been handed down to us. The great political philosophers read the works of their predecessors and commented on them, sometimes agreeing, often disagreeing. This history has less of the accidental in it than other history because, to a much greater degree than citizens or statesmen, philosophers are reflecting upon, and reacting to, thinkers that came before them. In considering the history of Western civilization, one must not forget the tradition of Western thought that inspires and explains the actions of peoples and statesmen. It is both more and less than a tradition in the usual sense – more, as it is more thoughtful, and less, being divided against itself and open to argument and correction. The tradition of political philosophy is not a sequence of customs; still less is it a ‘canon’ established by some dominant political power, as is sometimes said. It is the only tradition that does not claim to be an authority, that on the contrary constantly questions authority; unlike the various non-Western traditions, it is non exclusive and not peremptory. It is philosophic. No one can count himself educated who does not have some acquaintance with this tradition. It informs you of the leading possibilities of human life, and by giving you a sense of what has been tried and of what is now dominant, it tells you where we are now in a depth not available from any other source. Much political theory today feels no obligation to examine its history and sometimes looks down on the history of the subject as if it could not be a matter of current interest. But our reasoning shows that the history of political philosophy is required for understanding its substance. In recent decades the political science profession has been subject to successive new theories such as behavioralism and rational choice, each of which promises to put an end to the old debates over values and do away with political philosophy. But somehow political philosophy survives, despite efforts to supersede it, just as, despite the failure of those efforts, political science in the modern sense re-emerges periodically to make another try at bringing consensus and doing away with debate.⁹

⁹ *Ibidem*.

For Mansfield, in a true Straussian tradition, contemporary liberalism seems inherently saddled with grave wrong assumptions about human nature, and it is for that reason that the liberal project has evidently shown signs of utter exhaustion. As an attempt to develop accounts of morality in the name of some impersonal standards in response to the loss of shared practices necessary for the discovery of moral goods in common, that is some form of modern virtues, liberalism seems to fail. Morality based on a search by the autonomous moral subject for some common moral bond cannot sustain itself. The rational rules of the social contract coming from Hobbes through John Rawls cannot give rise to morally sustainable obligations, especially its justice principle, since they in fact constitute a particular form of utilitarian self-rationality of an autonomous subject. This self-rationality is incapable of overcoming the problem of why such a state should be obeyed in the first place, and why it should not be treated as just an object of a constant demand for goods, fulfilling a desire of a moment defined as a modern pursuit of happiness. Such a society constantly has to face the dilemma why it is more reasonable to fulfill a contract than to pretend that one does it.¹⁰

Liberalism of the modern welfare state based on a social contract cannot create non-egotistical motives in societies as such, in fact corrupts them, pretending that it is just. Human emotions are often more wise than reason, superstitions express human feelings and moral predispositions better than rational constructions. The ideas of justice created rationally by the social planners and bureaucrats tend rather to corrupt human souls than to induce them to justice and other virtues. The mills of justice, as William Blackstone observed, are fuelled by emotions, in fact, strictly speaking by love, the inculcated disposition to do good, that is to be virtuous. An elimination of social processes, which create moral passions from bottom up in autonomous institutions, the only place where one can teach people how to love, can never be substituted by the rational plans of elites, who know best what the just social life and morality of all should look like.

To think that people can be induced to behave justly on the basis of a rational, general plan of social behavior is the greatest fallacy of the modern liberal mind, incapable of providing any basis of virtuous behavior. People cannot be convinced why they should think first of all about others. A need for sentiments, *caritas*, magnanimity, sympathy and other virtues can only be explained on a basis of unreflexive moral impulses. It was for this reason that William Shakespeare in *King Lear* understood well that love and sympathy precede justice. When virtues are rationally concocted by the social planners, reason will find ways to justify injustice – this is a common-sense observation. The rational “scientific” plan how a just society should look is just the way bureaucrats want to devise their image of the perfect society. It also constitutes an utter disdain towards the common people, their passions and loves, different loyalties and attachments, people who are allegedly incapable of governing themselves, that is disdain of the basic right of a democratic-constitutional govern-

¹⁰ R. Scruton, *Modern Philosophy*, New York 1996, p. 39.

ment, the right of consent.¹¹ Mansfield is quite aware of the inherent limitations of the liberal project, because it disregards the very ancient, classical and Christian question how to explain the conditionality of humanity and above all its conditionality in history, a question that is a starting point for all transcendence. This philosophical question was disregarded in modernity, even if Kant accepted a possibility of the latter's existence. But the practical problem of the common good could not be adequately explained, because no common standards can be sustained when they are abstracted from the practices and descriptions that render our lives meaningful and comprehensible. In other words, it is modern liberal moral, dominant philosophy itself which becomes not the solution, but the problem. Its stress on autonomy with a corresponding ethic is derived from utilitarian history, and creates people who are utterly incapable of living lives which have any narrative coherence. Such lives become essentially a response to constant impulses worked out by our autonomous consciousnesses, a string of events which cannot be tied to any overreaching meaning making individual life understandable to itself.

We have a situation reminiscent of decadent ancient Rome. There were so many gods that, as Chesterton observed, it was impossible to live without offending at least some of them, which resulted, one might add, with the sight of existential despair and reversion to the immediate sensual and utterly practical. The character of a moral subject, the question of virtue, the content and the structure of his desires and dispositions was pushed aside, became peripheral, ceased to stand at the center of moral philosophy. Moral philosophers from Socrates to even Hume had this issue at the center of their thinking, which meant that this question of character formation constituted the most important educational postulate, whether at an individual or communal level. But it was the hope never to be fulfilled, a wishful thinking of the modern mind. Character could not be properly shaped because the very criteria of rational distinction were deemed irrelevant, a problem Kant wanted to rectify but failed to.

As a consequence, character was replaced by the most modern of modern words in all walks of life, choice. It appeared that a proper moral choice understood by Kant or Reid as deciding between desire and the requirements of morality was still thought to be possible, since for Kant objective morality was not only possible to be constructed out of rational thinking, but somehow reproduced at the social, communal level.¹² In the 20th century choice, as for instance in Sartre, was defined as a condition of sheer authenticity. It was authenticity, in popular parlance self-realization, which was to make character in moral philosophy, let alone at mass-culture level, an obsolete, anachronistic idea. As such choice began to replace character formation in public education, the latter being the very essence of education since Aristotle. The ideology of New Tolerance was the natural outcome of such

¹¹ H. C. Mansfield, *Pride and Justice in Affirmative Action*, [in:] *America's Constitutional Soul*, Baltimore 1991, p. 95–97.

¹² S. Hauerwas, *The Virtues of Alasdair MacIntyre*, "First Things", October 2007, p. 36–37.

a philosophical change. A corresponding blurring of the contours of human rights, the new “religion” of liberal modernity, was another outcome. Since human rights are decoupled from any ontological basis, and such is the consequence of modernity and its moral doctrine of choice, the idea of human rights is beginning to be simply tantamount to individual choice. The enlargement of the list of human rights indefinitely is its consequence.¹³ This replacement of character in moral formation by moral choice, or to put it bluntly moral freedom, is the end station of modern liberalism.

It is in response to this critical time, a peculiar form of modernity today described as liberalism, increasingly unable to provide any means of comprehending the meaning of life and human existence, that Mansfield develops his story of the villains and heroes of modernity. For him liberalism’s descriptions have become totally inadequate for humans to be able to act in a manner which would be intelligible to others as well as to individuals themselves.¹⁴ Mansfield’s direct and indirect critiques of liberalism have been as consistent as heretical and gained him the status of gadfly at his alma mater, Harvard University. But his perseverance and courage in the face of the “herd instinct of the independent minds” stem from a conviction that human life, enabling a cultivation of virtues necessary for community and solidarity formation, the values of which Western civilization is allegedly proud and constitutes its perfect embodiment, can be lived only when those who are engaged in constructing and engaging in community formation are focused on goods without which such an endeavor is futile. Thus such a big role for the right of consent as a mechanism of morality formed from bottom up.

Liberalism as a doctrine and its modern practical embodiment reached such a stage where an axiom that there is an ultimate human good towards which humans should strive is decisively rejected. It denies any place for a determinative conception of the human good in public discourse and that any model of a common life should be grounded in it. Intellectually this is nothing new: such was the modern liberal project as devised already by Machiavelli, Hobbes or Locke. What is new is the growing disillusion that this methodological, epistemological and ontological stance might form a community of mutual obligations, sustained by other means than the minute rules of the administrative state.

Despite this disillusion, liberalism persists in claiming that this is the right foundational assumption and course of action.

This is visible in all public policy measures, for instance in construing the rigid idea of separation of state and church understood as the separation of religion from public life or in the so called New Tolerance, becoming the main modern

¹³ This was already intimated by some conservative Enlightenment thinkers, like Burke or John Adams. See: A. Bryk, *Liberalism, Constitutionalism and Judicial Review*, [in:] *Historia Integra*, Toruń 2001, p. 318–325.

¹⁴ This was shown by Alasdair MacIntyre in his seminal books: *A Short History of Ethics*, the most important *After Virtue* and *Against the Self-Images of the Age*. See also: S. Hauerwas, *The Virtues of Alasdair MacIntyre...*

liberal ideology. It is also visible in public education, which has been corrupted by the very act of turning itself into a tool of accommodation to the liberal public policy measures, instead of cultivating human minds and souls, the very core of traditional liberal arts education with its “Great Books” narrative, an essence also of political philosophy. Mansfield has constantly defended “Great Books” education and education as a means of getting an insight into things permanent, as a field of cultivating one of the paramount intellectual virtues of the university, intellectual and moral excellence. For Mansfield contemporary universities, including his own Harvard University, have betrayed this tradition, corrupting their mission and turning out students incapable of finding coherence in their lives as citizens. In the most dramatic fashion such policy measures make it a duty of the liberal state to deconstruct by law and administrative measures, that is force, all the autonomous institutions, like for instance churches or families, so they conform to the liberal’s state image of the monistic good, a problem Mansfield definitely recognizes as dangerous in the context of his sophisticated analysis of contemporary gender feminism and homosexual movements.¹⁵

This policy comes out of fear that such independent institutions might be so impudent that they dare teach definite, foundational morality, based on character formation. Government in such a case has a tendency to “attempt perfection by overriding prejudice, but when it does so it can develop a self-serving tyrannical – or bureaucratic – definition of perfection”.¹⁶ This liberal totalitarian impulse gives rise to a psychological and educational industry financed by the administrative state. Its aim is to guard the recalcitrant minds from committing the mistake of not being progressive and modern enough, especially to prevent them from committing the most horrible liberal crime of “non-tolerance”. To be non-tolerant means essentially that one is judgmental, that is making moral distinctions and creating a hierarchy of moral norms. Of course morality and the virtues stemming from it are impossible to be attained in any other way. But such a process is immediately branded as “exclusive” and “discriminating” and by ideological manipulation tied into its alleged consequence of igniting violence and civil war. Contemporary culture wars dividing the liberal societies defy such liberal monistic pretences.

Mansfield is perceptive enough and, like his great contemporaries Charles Taylor and Alasdair MacIntyre, as a conservative he realizes that, as Nietzsche said, “we burned our ships”, and there is no past which we might return to as societies, not at least in the foreseeable future. What we have is self-government which might, we trust, use reasoned argument in search of what is natural, not just passing. He understands that we are all inhabitants of advanced modernity, bearing its social and cultural marks, and he is aware that his understanding of the tradition of political philosophy and of virtues they teach might be possible on this side of modernity. He nevertheless takes on the monistic pretensions of modern liberalism in all its

¹⁵ H. C. Mansfield, *Manliness*, New Haven 2006.

¹⁶ Idem, *Pride and Justice in Affirmative Action...*, p. 97.

shades, from the standpoint of a different tradition, the classical one. He begins not with an autonomous “self” as a source of moral autocreation but with the eternal Plato and Aristotle and all the greats after him, including Christian tradition. That is those who begin with a simple, commonsensical, in fact, thought, that our actions require: first a conception of an end, and second the social and political conditions necessary to sustain a life formed by virtues constitutive of that end.¹⁷ It is a great contribution of Mansfield to show, in different ways and in different fields that such a condition is lacking in modern liberal moral practice and theory.

Mansfield tries to ply his trade of political philosophy as a tale of a coherent unity, a narration within which an individual life can acquire attributes and capacity to attain good. This is possible only when a proper foundation is found. In the human case this foundation is human nature, empowering a person with elementary skills for further growth. The goal of development, once such a foundation has been established, is to strive for the good defined by the rules of natural law derived from the foundation of human nature. Mansfield instinctually refused to grant modernity the last word on morality. Although we are autonomous in modernity, this autonomy, Mansfield seems to think, operates nevertheless under the influence of principles that do not originate from it.¹⁸

These principles can be destroyed, and with them the potential for virtues, growth and meaning. The real question is how to recognize the principles of natural law, which is obviously impossible for the average human to grasp without falling back upon the good practices through which virtue is acquired. Virtue as a capacity of mind that allows a recognition of relative goods and the use of skills to attain them needs cultivating. Virtues may develop properly only in individual communities with set traditions.

For Mansfield, therefore, the notion of a community is paramount. This is a generic term, also including a constitutional community. This recognition of dependence on community is, for him, the key to independence and first of all to solidarity. The paramount importance of community allows individuals to exercise capacities offered by their nature to full potential. This and only this is the way to achieve meaning and to reconcile oneself with the world and the others. In this sense Mansfield’s powerful presence at Harvard, one of the preeminent American liberal arts colleges, has been making a real difference, which has been grudgingly recognized even by his opponents.¹⁹ If the real issue in the 1960s, as James Q. Wilson remarked, “was what one must do to save the University”, then Mansfield has done here an outstanding service to save the university, not only in the sense of preserving standards but also in the sense of treating it as a place where young im-

¹⁷ S. Hauerwas, *The Virtues of Alasdair MacIntyre...*

¹⁸ As a student of Strauss, Mansfield would probably feel good with such an exchange between Strauss and one of his students. “But Mr. Strauss. Aren’t we Moderns? Yes, replied Strauss, but we are not merely Moderns”, quoted in: D. Murray, *Neoconservatism*, New York 2006, p. 12.

¹⁹ J. Tassel, “Harvard Magazine”, September–October 1999, p. 56–66.

pressionable minds should be exposed to the things “permanent”, things elevating, things remembered in life which was to be always striving, in the best tradition of John Henry Newman and Benedict Arnold.²⁰

Machiavelli and America

In his books *The Spirit of Liberalism* (1978) and *America's Constitutional Soul* (1991) as well as in *Taming the Prince* (1989), a work on philosophical origins of executive power, Mansfield shows that the strength of the American political order lies in its carefully and intelligently designed “constitutional soul”. What he means by this is an idea that the politicians who created the Constitution of 1787 rejected the Machiavellian ambition to dispense with classical virtue altogether, and did not focus solely on self-interest, economic interest and rights, features commonly associated with the American, Lockean type of liberalism.

But if Machiavelli was a modern man, and America is modern, how come America is not Machiavellian? For Mansfield Machiavelli is the most articulate exponent of modernity as applied to politics. In his books *Machiavelli's New Modes and Orders: A Study of the Discourses on Livy* (1979) and the deeply original and influential collection of essays *Machiavelli's Virtue* (1996) Mansfield follows his teacher Leo Strauss, emphasizing Machiavelli's thought as the first and self-conscious “founder” of a distinctively modern political and philosophical sensibility. Thus it is necessary to define first the modern problem as seen by Machiavelli, since for Mansfield, as for Strauss, a recovery of virtue in the conditions of modern freedom has to start with Machiavelli's diagnosis and practical solutions. His world is our world, our modernity, and we have to start from it if we are to engage in a meaningful and reasonable search for virtue in modernity of late liberalism, to which pressures the American constitutional system is increasingly subjected.

For Strauss, Machiavelli rejected the pre-modern classical tradition as exemplified by the ancient and Christian sense of virtuous life as a goal of political order. In other words Machiavelli recast virtue in its application to politics, or executed a radical intellectual break in the understanding of morality in public life. This tradition against which Machiavelli revolted – and this was a premeditated and cold rebellion – was characterized by certain beliefs and moral goals. There was no distinction in this tradition between morality and politics. This distinction was made by Machiavelli, who taught at the same time to take a posture of detachment or, better to say, moral indifference, in the presence of vice. Vice was more a technical problem, not a moral problem, for a political order. Thus a wise ruler had to learn how not to be virtuous in the first place, since the major aim of his governance is preservation of order and survival. Among these classical ideas against which Machiavelli revolted was the idea that political philosophy was to be understood as an

²⁰ Quotation in: *ibidem*, p. 59.

incessant quest for the best political order, the order which was most conducive to the cultivation of virtue, and in which each person gets its due and occupies its proper, that is rightful place according to his or her nature. This search for virtue was thus, by its very essence, hierarchical, distinguishing higher and lower orders of existence in the political realm. To use the modern language, this search for virtue was highly judgmental, non-tolerant and discriminatory for the sake of elevating people above their beastly impulses. Creation of a political order best suited for a cultivation of the virtuous people was the main goal of politicians and political philosophers.²¹

This classical as well as Christian political philosophy recognized of course an element of chance, since it was unfortunately highly unlikely that the conditions which the political philosophers could recognize as conducive to virtue could persuade politicians, albeit such a situation could not be entirely excluded. But the most important classical theme was this idea that nature, in this human nature, dictates the proper limits of conduct on humans. They cannot overcome their nature. If they try, the consequences for them and for a political order itself would be calamitous. The Greeks named this desire *hybris*, the Christians the sin of conceit. This urge was recognized as a deadly sin which, once committed, would result, sooner or later, in the total corruption of a polity and of an individual soul, leading to despair and anomie.²²

Machiavelli consciously rejected these assumptions, first of all subverting the very idea of nature. Nature was just a pure speculative obstacle to clear-cut thinking. For Machiavelli it constituted a nonhuman standard. Its efficacy and utility for human aspirations was none. Machiavelli lowered the goals of political philosophy and human society, beginning with humans as he found them, rather than as they should be, and declared that the political leaders were to take care of the basic human needs as they were, rather than their highest aspirations. With that, a role of political philosophers, in fact the role of speculative, abstract reason as such in search of an ideal, higher order, had to be altered. No longer blazing intellectual trails, philosophers and theologians were reduced from the position of leaders of society. Their place was taken by the prince, the state. The former were reduced to the role of pure advisers. Not reason but power, at best contained and tamed, was now to be the pinnacle around which the very life of the polis was to revolve, possibly in the best interests of the basic needs of the society.

As a consequence, chance, the ancient Fortuna, was also to be drastically eliminated. Humans were sovereign, they make their own chances, leaders in turn have full control of their destinies and the destinies of the people they lead. As long as they devote their efforts to meeting the objects of their subjects' immediate

²¹ Aristotle, *Nicomachean Ethics*, [in:] *The Complete Works of Aristotle*, ed. J. Barnes, Princeton 1984, book I, p. 1743, book II, p. 1103–1104.

²² T. V. McAllister, *Revolt Against Modernity: Leo Strauss, Eric Voegelin and the Search for a Post-liberal Order*, Lawrence 1995, p. 31.

desires, instead of leading them toward some higher good, the political order can be stable and felicitous. Machiavelli was the first modern, because he reduced the reach of political philosophy. It became simply not a quest for the good order or the natural, but just the technical problem of achieving a political order best suited to satisfy the basic human desires. But in the course of satisfying such desires, nature became an object of manipulation and understanding, so as to conform to human need, which had essentially human will as its principal source. Nature became understood as an object of scientific study, which in turn meant that science itself was focused solely on nature being used for immediate human needs. That is science treated nature as an obstacle, ready to remove limitations from it. Teleological, and by implication also theological understanding of nature grew increasingly obsolete, redundant. Soon, for Francis Bacon, a couple of generations after Machiavelli, and the subsequent Enlightenment thinkers, science became the main mover behind human endeavors. They turned out to be ultimately rooted in the capricious human will. This Machiavellian as well as scientific revolution began to control, that is to transform nature.²³

In addition to such a treatment of nature, Machiavelli changed a meaning of political philosophy. Mansfield dissects the contours of this Machiavellian breakthrough of modernity with a clear understanding that with Machiavelli – and here he follows the footsteps of Strauss – politics began inexorably to follow the path towards gangsterism, the so-called modern “political realism”. For Mansfield, Machiavelli recast the meaning of virtue, but he could not do this without at the same time recasting the meaning of morality itself and that without radically changing the ends, that is purposes of political life. This recasting of the classical and for this instance Christian idea of virtue is the key to Mansfield’s dissection of Machiavelli, since he understands that what was and is in fact at stake was a question of modernity’s regression of politics into a province of immoral conduct, not as a fact but as a normative ideal. For Machiavelli, in Mansfield’s interpretation, virtue ceased to mean the province of moral lasting norms but began to mean simply flexibility, cunningness according to the times or situations. What began to count for a politician was the utility of power to produce a result, without being inhibited by any moral constraints. That is to be efficient, with the objectives coming from the logic of power play itself.

Mansfield made an incisive observation that Machiavelli executed an operation which made distinctions between different regimes meaningless, differences which were regarded until his time as deciding whether a particular regime was

²³ Literature on this shift of paradigm between the ancients and the moderns is voluminous. See for instance a classical exposition of this conflict in the works of Leo Strauss, for instance *Natural Rights and History*, also his chapters on Plato, Machiavelli as well as Nathan Tarcov’s and Thomas L. Pangle’s chapter *Leo Strauss and the History of Political Philosophy*, [in:] *History of Political Philosophy*, ed. L. Strauss, J. Cropsey, Chicago 1987, p. 33–89, 296–317, 907–936. This Machiavelli’s breakthrough and its consequences are well exposed in T. V. Allister, *Revolt Against Modernity...*, chapter 1, as well as in P. Manent, *The City of Man*, Princeton 1998, esp. p. 156–182; also L. M. Friedman, *A Republic of Choice*, Cambridge Mass. 1996.

good or bad. This became so because “the ruling part is always the same, and only the relation of princes to each other and of princes to the people discloses the nature of the regime”. A regime of “consent” would satisfy their deepest concern, the concern for security and their fear of being governed. Thus a government ruling in the name of the people will be able to convince people to accept much more easily the hardships of being governed. But the forms of the regimes do not matter much, since “regardless of the forms, government will always be in the hands of a few, who will always be in effect ‘princes’, no matter how they are styled. And even a government republican in form may gratify the ‘humors’ of those who rule – namely the passion for glory, fame, or – as we say in tamer times – ‘recognition’. Machiavelli understood that even a republic would need to be renewed, to be shaken occasionally from its settled conventions, and the instrument of rejuvenation he would find in ‘sensational executions’. To rule was to ‘execute’ with ‘effect’ – not only to produce the desired result, but to make an impression on the public mind. It also meant to execute in the sense of punishing, and punishment, too, had its utility. For it could at once plant fear and assuage anger”.²⁴

Here Mansfield recovered from Machiavelli’s thought the most striking practical observation which is directly applied to a contemporary world, that is the nature of modern executive power. A contemporary myth has it that to “execute” a policy means to carry the will of the people, or to carry out the mandates of the constitution itself. But Machiavelli was the first modern, and Mansfield recovered this idea perfectly, showing that the law is a very imperfect document, that by nature it could not attain what it attempts, since the law speaks in universal terms and thus needs assistance from outside to decide what was reasonable in each case. Mansfield showed this modern brilliance of Machiavelli in its full exposure, that in the hand of a “good prince” the reality of government means simply ruling with the fictions of the law. In the contemporary world this “execution of laws” depends also increasingly on the interpretative powers of constitutional tribunals or courts in general. Both the executive and the courts in modernity go in fact hand in hand in forming a ruling class, “the modern prince”, constituting the essence of the regime’s decision process, in the name of the people, but in fact doing what they want to get and bending laws to their ends. That was partially an insight of “Brutus” commenting on the proclivities of the American new federal constitution to form an alliance between the executive, the judiciary and Congress, ruling in the name of the people, but in fact for the interests of the governing elite, something he termed a “coterminous power theory” of federal governance, where the separation of powers and checks and balances would be obliterated by a skillful interpretation of the law of the Constitution by the Super Court.²⁵

²⁴ H. Arkes, reviewing Mansfield’s *Taming the Prince in Recasting Virtue*, “New Criterion”, September 1996, p. 124–125.

²⁵ See on that: A. Bryk, *The United States Constitution in the Thought of the Antifederalist’s ‘Brutus’: The Nature of the Compact, the Concept of Representation and the Consolidation Theory*, [in:] *Szkice z dziejów ustroju i prawa*, Krakow 1997, p. 61–75.

Mansfield showed deftly how this factual state of affairs had to be concealed by the ruling class since “the assent of the multitude could not be gained so readily for a regime that made so brutally clear that it rested on the splendor of *uno solo*, of one man or a gifted few, acting out their passion to rule”.²⁶ But this governing class’s will to have its way, justified by the lip service of the “people’s rule” formula, has a powerful ally, increasing the power of this governing elite. It is the modern concept of the “reason of the state”, a faint, even if a much more powerful echo of the ancient requirement of “self defense”. It is this increasing danger of the real threats from abroad and within the state, for instance terrorism, which may make more urgent the unconstrained hand of the Executive, or wider, the ruling elite, justified by the security and wellbeing of the people themselves.

Mansfield showed how Machiavelli’s cold realism of this new science of politics totally decoupled a moral reasoning from the province of power as such, something which was visible in the striking absence of any mention in his writings of the “soul”, *anima*. Politics thus became in Machiavelli a here-and-now affair of immediate animal passions of humans rationally organized and executed, with the total extinction of a moral dimension towards which political life might be, however tenuously, directed. By doing this, claims Mansfield, Machiavelli repudiated the whole corpus of human thought, nay, culture as such, understanding the latter as a simple utilitarian device to make animal passions of humans more manageable. The greatest traditions of the classics, Christianity and Judaism were cast aside as useless devices which tried fruitlessly to orient humans towards moral goals higher than their immediate desires, devising policies which would make these desires tamed and geared towards virtues which would attempt to make the humans better than they themselves were. But Machiavelli defined such attempts as misguided, not only futile but erroneous. Politics is about power per se, and no morality can do anything about this. It is a virtual entity together with the fictions of the Constitution and the restraints of the laws, justifying in the eyes of the gullible people the inexorable logic of the unrestrained power of the executive, aided by the modern judiciary, to execute policies shaping the world according to their own image of them.

Machiavelli thus opened the gates to all kinds of ideologies which purport to make human beings inhabit a more just and equal world despite the natural order of things. In other words Machiavelli in fact killed the notion of the nature of man, and with this the concept of natural law as an immutable order of things, off limits to certain political experiments. Lessons from this change were eventually drawn by Thomas Hobbes, and later John Locke, who elevated the lowest desires of human will to a level of legitimate desires as the highest political goal. The natural, objective, rooted in ontology right, turned into individual right, at the beginning the right to self-preservation, and then rights of people as members of a state, to relieve humans from some burdens. This was a task which John Locke completed, and it became the ultimate justification and a source of liberal democracy.²⁷

²⁶ H. Arkes, *Recasting Virtue*..., p. 126.

²⁷ See on that also L. Strauss, *Natural Right in History*...

Modern Liberalism and Constitutional Government

Here is where Mansfield takes up the gauntlet of modern liberalism and with it modern constitutionalism. If he is a liberal this happens to be for two reasons. One is reluctance of being in constant rebellion against the reigning spirit of one's own age, the rebellion which may yield little immediate gain, begetting instead just an empty frustration, and causing a clouding of sharp thinking, and thus an ability to analyze ways of escaping such liberalism. Here Mansfield is definitely more in the tradition of modernity's critique of his beloved Tocqueville than Chateaubriand, let alone de Maistre. That Tocqueville who knew that understanding rather than impotent rebellion is necessary for the wisdom of saving what is there to save for the future. Second, because after Strauss Mansfield thinks that after all liberalism is the best regime for our time. Nevertheless, liberalism is a political ideology borne out of a modernist impulse, pretending to be the philosophical stone of politics for ages to come.

Constitutionalism is a child of liberalism, and it is here that this feud of Mansfield with contemporary liberals seem to be especially poignant. For Mansfield Machiavelli was the author of modern constitutional executive as a decisive part of modern constitutional order, and despite the denials of contemporary liberals Machiavellism and modern constitutionalism are twin brothers, being a consequence of the same ontological and anthropological assumptions. In such a perspective constitutionalism is definitely opposed to Machiavellism, but not entirely so. Machiavelli disdained the constitutional forms which constitutionalism enshrines, being at the same time a direct means of thwarting criminality in politics. Constitutionalism definitely rejects Machiavelli's shameless idea that the truth of an act is revealed in its effect, in how it turns out rather than how it was done. In other words constitutionalism definitely does not accept the premise that the end justifies the means. But there is a problem with selfishness as an operating principle of action both in Machiavelli and in modern liberal constitutionalism.

Liberalism, according to Mansfield, did not begin on its own, independently of Machiavelli, as liberals like to claim or was filtered through Machiavelli's thought, taking his lessons on a subject of hard political necessity, but then deriving opposite conclusions from him. There is no doubt for Mansfield that liberalism did not have an innocent birth, that it was born out of an "original sin", that is a total metaphysical rebellion which left Cain's stigma on liberalism's conscience, at the same time pretending that such a crime did not occur. This metaphysical rebellion which Machiavelli declared as a starting point of contemporary politics and liberal constitutionalism took for granted hiding its anthropological as well as ontological assumptions, was a colossal act of substitution of man for God, or to put it in other words, a replacement of the immutable moral order of nature by a moral autocreation of a liberated individual. This change was so radical that some of the most perceptive critics of modernity, such as Kant or Dostoyevsky, defined it as the

“to be or not to be” of humanity. They asked a question what were the sources of morality as such which individuals were to listen to, and why they should listen to morality which increasingly began to be defined as a subjective will of happiness understood as a fulfillment of an immediate desire, contravening all established morality as such.

Liberalism, thinks Mansfield, avoided this problem, or hid it deeply under the pretence of creating morality out of the mutual consent of rational individuals. But Mansfield destroys this senseless self-contentment of liberalism, showing that as a doctrine of individualism it was at the same time a powerful demolishing tool of the hitherto known culture based on a distinctive anthropology and ontology. In other words that liberalism was a colossal act of violence which was to produce an individual as a basic, operating agent in a society, in the first place. Hobbes and Locke, the founders of liberalism, arrived at this position via the construction of a state of nature. For them an individual exists in the state of nature, either in a state of war as Hobbes claimed, or of great inconvenience as Locke assumed. This state of nature compels an individual, they thought, to look to himself, and excuses whatever irregularities may be necessary in that state. Contemporary liberals do not talk, or talk in a sanitized way, about the state of nature, preferring to use the idea of “original position”, in which rational individuals somehow decide to be compassionate liberals towards humanity as such, in abstracto, but via the welfare state, in connection with each particular human being.

But for Mansfield it is obvious that such a rosy view of liberalism and constitutionalism is a myth because the individual

in whom we put our faith required a wrenching effort to become realized. The ‘perfectly free’ individual of whom Locke speaks had to free himself, or be freed by Locke, of the obligations that tie man to God. To break these ties is a decision more active than a mere parting of the ways, as in an uncontested divorce. For the liberal principle of mutual consent cannot be established by consent: one must first show why consent is reasonable and necessary. Why am I not my brother’s keeper, as the Bible says I must be, regardless of consent? To answer this question one must venture profanely into sacred precincts and declare them subject to human necessities and human sovereignty, as Machiavelli did when he excused Romulus’s fratricide as necessary to make himself *uno solo*. With his demonstration of the daring it takes to make oneself truly alone, Machiavelli unsheathes the original liberal individual. The original individual is a tyrant, and necessarily so, because the selfishness used to defend himself against God carries over to relations with his fellow human beings, [here] Machiavelli reverses the reasoning of the Bible. With his sensational strokes of execution, the prince is the original empowered individual. To ignore the Machiavellian origin of the liberal individual is to deny the need for taming in constitutional government. If power is not essentially encroaching, why does it need to be limited? One also forgets the connection between necessity and virtue, stressed by Machiavelli and accepted by the liberal philosophers. Will our rights be well-exercised and offices in government be well-executed if no pressure is brought to bear? The harm to liberalism from ignoring Machiavelli comes by these avenues of complacency.²⁸

²⁸ H. C. Mansfield, *Taming the Prince: The Ambivalence of Modern Executive Power*, Baltimore 2005, p. XVI–XVII.

Another argument Mansfield has which contemporary liberalism and constitutionalism, is Mansfield's thesis about the modern executive's ambivalent nature, which cannot be harnessed by the most intricate laws. Here liberalism employs its darling child political science, arguing, in the words of its believers, that if the ambivalent executive power means vague, untrustworthy or indeterminate, which may indeed be a problem, then it is possible to correct this challenge precisely by political science, that is proper empirical or other research. Mansfield considers this hope as a ludicrous *hubris* of the liberal mind, in fact a fantasy not meeting a challenge of any reasoned argument, including an empirical one, let alone common sense observation. If such a possibility of construing a perfect legal and administrative system was possible, then we would have full justification for an absence of virtue. There would simply be no need for it, no discussion of it in a democratic republic, since a perpetuum mobile of this administrative, legal system built into a constitutional structure would ensure the proper behavior both of politicians and citizens.

This constitutes a fascinating arrogant belief of political science which is a mirror image of a liberal sociology, which makes human behavior entirely dependent on society's organization, thus trying, for instance, to explain the roots of evil by non-moral sources of human individual conduct, thus trying to organize society in such a way as to relieve men of being good. They have simply to be living in a well organized society, eliminating the root causes of evil. Liberalism does not need virtue here as an aid to a constitutional scheme since

in a liberal constitution one can construct offices or institutions that tend toward good administration, but there is no guarantee of the virtue required for the effect. Our more scientific brethren, dissatisfied with a mere inclination and seeking certainty in results, eliminate the virtue that may or may not complete the tendencies of institutions. Virtue is a variable in the true, stubborn sense, incapable of being correlated in a system. So, with the best of intentions and seeking to do good, the scientists refuse to speak of good. They believe that once values have been eliminated from the study of facts, the promise of liberalism to enable us to govern ourselves will at last be fulfilled – since fulfillment will no longer be subject to change. The scientists caught in this vain hope are joined by superdemocrats who dislike virtue because it is aristocratic. The latter want democracy without excellence, which they fear as a source of unaccountable power, all too predictable in its harmful effects if not contained. Such a democracy, however, would still need levelers, averages, and flatteners, and still reserve offices and prizes for them. If superdemocracy should come – or have we not seen it already? – virtue will have received a strange twist, turning on itself, not merely to guard against false claims of virtue, the intent of liberalism, but even to try to suppress itself. But virtue cannot suppress itself, because the attempt requires virtue. Virtue will always be present in human affairs in its undiminished ambivalence, indispensable and undependable.²⁹

What Mansfield does here is not only a defense of virtue and moral life as such, but a fundamental defense and hymn to freedom as such, freedom as a condition of human life so rich, so indeterminate, so full of passions, contradictions, fists of desire to commit evil as well as commit goodness, that any attempt to make

²⁹ *Ibidem*, p. XVIII, see also an exchange between S. S. Wolin and Mansfield in "Studies in American Political Development" 1992, vol. 6, p. 211–221.

it predictable or organized under a pretence of one monistic common denominator how a "good" life should look seems to be ridiculous, bordering on utopia pointing towards despotism. Mansfield's is a spirited defense of the freedom of an individual, which is ultimately rooted in the freedom of Someone who made men truly free in the first place, because of Himself being a taboo to Machiavelli, political scientists, or any assorted bunch of people thinking that their particular point in time and history is the perfect vantage point to organize a perfect society.

Mansfield treats Machiavelli's project not only as a subject of merciless intellectual dissection about the sources of modernity. Machiavelli is for him also a stepping stone for recovery of the moral grounds of politics. Mansfield does not count much on the character of a ruler or an elite to constrain themselves, to respect the law equally. That would require an ingrained religious belief or natural law grounded in it; the ingrained ethics of the secular making would not do. But religion and natural law have simply ceased today to be an anchor for the character of men in politics, let alone cultural elite. If, then, such sources are non-existent, since Machiavelli killed the classical or Christian natural law, and as a consequence Christian natural right, as irrelevant, if not overtly superstitious, then what would constrain such a ruler or the elite from doing what they would like to do? If any Constitution is a fiction, the people gullible, the notions of moral truths or natural law laughed at, and Christianity all but gone from culture, then what is going to guard us against the despotism looming behind such politics?

Mansfield's answer is as romantic as it is opaque, but at the same time it follows the great tradition of Strauss. Realistic doctrine of virtue has simply to be conveyed to students as covert teaching. But what would be the efficacy of it? Here Mansfield somehow counters his sober argument about the lack of any moral sources lying behind the sheer will of power of the ruler and the elite, even if executed with the best of their intentions, which are nevertheless their intentions of the best possible course of action. If covert teaching might be of any use it is because there must be an inner moral kernel of a human being, a moral soul which can resist all attempts to obliterate it. It is the role of great teachers to keep this moral soul alive, to nourish it and to hope that enough such souls will be saved to carry the human race into the post-Machiavellian future.

Mansfield's appeal is as much a call for a resurrection of a political philosophy as a call for a return to a classical liberal education. The latter was once in the liberal-democratic society a basis for meaningful knowledge, and is now being buried under this debilitating idea that the aim of education is just utilitarian preparation of young people for a market. Inadvertently, Mansfield is defending here a great tradition of the West's self-understanding, forming a bridge to the university of Christianitas and the Academy of the Ancients, kind of a cry in the wilderness. This cry is also unfortunately applicable to Harvard University, Mansfield's alma mater and his teaching turf for the last half a century, the first American university. Founded in 1636, Harvard has become by many judgments and in the company of

other great American universities, despite its brilliant history and the highest market utility of its diplomas, an institution deserting this idea for which universities were founded. Worryingly, it has begun in its humanities departments to be increasingly an epiphany of a useless, porridge-like, ideological and acedic education to nothingness. Mansfield has become for generations a conscious rebel in this arid land, not because he has been an especially pugnacious and revolutionary spirit – one can imagine no more kind and gentle person than he is – but because he could do no otherwise, because his faithfulness to truth and himself required this as a civil duty.³⁰

Constitutionalism, Virtue and the Culture of Rights

If America is quintessentially a modern nation, it is at the same time a unique modern nation with an interesting response to all the inherent challenges and dangers of modernity to human freedom. Mansfield refuses to grant Machiavelli the last word on the American constitutional system. Although America is a modern society, it was also built on the clear understanding that for this type of society to survive real virtues have to be developed, inculcated and defended. But virtue in the American constitutional system is not and cannot be directly inculcated. How could it be when

society dedicated to liberty could [not] make much of virtue [since the one] resolved to have virtue could [not] pride itself on liberty. Yet liberty and virtue also seem necessary to each other. A free people, with greater opportunity to misbehave than a people in shackles, needs the guidance of an inner force to replace the lack of external restraint. And [since] virtue cannot come from within, or truly be virtue, unless it is voluntary and people are free to choose it, whence does it come? Americans are, and think themselves to be, a free people first of all. Whatever virtue they have, and how much of it, is a counterpoint to the theme of liberty. But how do they manage to make virtue and liberty harmonious?³¹

Mansfield tries to answer this fundamental question of American modernity and constitutional system, a tension between freedom and virtue, through an extensive review of the different approaches to it taken up by John Locke, Charles de Montesquieu, Benjamin Franklin and finally the Federalist Papers, the original commentary on the Constitution of 1787. Freedom understood in a modern sense is essentially unrestrained. It is a will-obsessed impulse. Virtue is on the other hand a force of guided restraint, guided in a condition when guidance is increasingly being derived essentially from the sheer will of an autonomous self and its moral autocreation. Where in such a situation, asks Mansfield, can we thus find a semblan-

³⁰ On this problem see: J. Hart, *Smiling through a Cultural Catastrophe*, Wilmington 2004; on Mansfield's and other academics', both liberal and conservative, cultural battles at Harvard University against diminishing humanistic education see J. Tassel, *Thirty Years' War...*

³¹ H. C. Mansfield, *Liberty and Virtue in the American Founding*, "Krakowskie Studia Międzynarodowe" 2008, No. 1, p. 91.

ce of virtue in the American constitutional system? For Mansfield the only source of virtue is the very construction of the system itself. Ultimately it is not Locke's

self-interest generally or theoretically understood, but the interest of the office... through which ambition, energy, and responsibility [shines]... The interest of the office is a kind of interest that permits and requires the cooperation of virtue. The lesson overall is that moral philosophy is incomplete without political philosophy.³²

If so, Mansfield seems to suggest, then political philosophy understood as wisdom gained out of the constitutional experience of free people may lead us into gaining an insight into things permanent, kind of a *déjà vu* for a modern philosopher. It is political philosophy again which might lure us into turning around our lives onto a path of searching for truth. This would be done voluntarily and with the full understanding that this choice is free, although it brings happy rewards.

Mansfield's oeuvre is also shot through with perceptive observations about how the modern culture of rights destroys self-government and constitutionalism. He is, in the context of American constitutionalism, a critic of transforming constitutional rights into human rights trumping the former. Human rights, increasingly lacking a firm ontological and anthropological basis, incessantly expand. The sole justification of such an expansion becomes a wish of the autonomous self, put forth as a demand for more equality in all spheres of life. In this new version

we have seen, rights are no longer 'civil' as distinguished from and related to natural rights. They are human rights and as such have no necessary relationship to civil society, the Constitution, or the common good. In our own day they are also known 'entitlements', originally a technical term for claims on a budget that must be paid out regardless of how many claim them. When rights in general are taken as entitlements, even the sky is not the limit, and your rights culminate, not in the right of consent, but in your right to feel dissatisfied. One could sum up entitlements in this manner: they have no reference to the common good; they result from no actual or potential contribution by the entitled; they do not have to be individually, much less responsibly, exercised; and they deny past progress in rights while producing a static society of defensive special interests.³³

Mansfield looks at contemporary rights understood as entitlements as a result of a tectonic change in the very concept of rights in modernity, which ceased to be subjected to a structural ordering of a constitutional state operating through a right of consent. This right of consent is both natural and civil, lying between natural and civil rights. It is natural, shows Mansfield, since it is prior to civil rights. It is civil insofar as it is through consent that conventional, limited civil rights are established, including here the right to vote, which is a civil version of the right of consent. Consent is crucial because it creates government; at the same time it is security which tells government that although rights are secured by government, they

³² *Ibidem*, p. 106–107.

³³ H. C. Mansfield, *The Revival of Constitutionalism*, [in:] *The Revival of Constitutionalism*, ed. J. W. Muller, Lincoln–London 1988, p. 222.

were not created by government and do not exist at the convenience of government. They are in fact natural, of which the consent is the conscious guarantee of them being orderly implemented through government.

What is crucial here is that rights must be understood as being accompanied by a form of government because only the government, its constitutional form, can guarantee them. That form simply secures rights by governing under law, and this rule is exercised by the majority which is constitutional, as opposed to a factious majority. This situation is not tantamount to the tyranny of the majority. Constitutional government operates by the majority rule, but this majority is never the same. The right of consent is the right absorbing in time a democratic discussion and giving minorities a stake and security in such a constitutional state. If the minorities want to challenge that mechanism, they argue from a right going against the constitutional structure, and they have an obligation also to provide reasons why their rights are not sheer entitlements. In other words they have to subject their conception of rights to a reasoned argument in public and not to push for their full realization in public, in every sphere of life, to push for their conception of a political order and culture solely for themselves.

There is a tendency here to argue from first principles, which in modernity, decoupled from any fundamental justification of rights grounded in any common anthropology and ontology, are very often tantamount to the subjective wishes of an autonomous self. This subverts constitutionalism which is also subject to outside pressures, especially contemporary social sciences. It is social science today which

refuses to tolerate the indeterminacy of a situation in which the Constitution may or may not achieve its end. Social science wants a guarantee of the result. To get this guarantee, it will conceive the problem differently. It is much friendlier, for example, to the checking function of the separation of powers than to its tendency to produce good administration because the checking function relies on self-interest rather than virtue, and of course self-interest is more reliable than virtue. That is self-interest is more predictable than virtue, not more responsible. To get determinate results social science favors predictability over responsibility in the description of constitutional government. But it is in the nature of a form to leave open the content or behavior which it formalizes; hence it is in the nature of a constitutional form to describe or embody, without describing a function that may or may not be performed. The insistence of social science on determinate, predictable results requires to look through or overlook constitutional forms to uncover what it regards as the actual behavior behind those forms... Social science does not accept the distinction essential to the *Federalist* between the people's will and their reason or intention. It takes note that we have no assurance from the working of the Constitution that popular will become a reasoned intention. An aptitude to refine the people's will or a tendency in that direction is not enough, since the Constitution must do what it does without fail and without dispute. Therefore, instead of studying promised tendencies in the Constitution of its asserted functions, which are frequently not delivered in fact, social science turns to search for the determinants of popular will... In order to achieve the determinacy of a science that is universal, necessary, and exact, social science looks beneath popular will rather than beyond it. For what determines or correlates with popular will cannot be will.³⁴

[...] The social science disregards the people's will, considering it as a problem, whereas the *Federalist* elevates it to an quiding intention. Once you try to understand the people's will, you must

³⁴ *Ibidem*, p. 223–224.

apply rational criteria of your own making, meaning you must disregard that will and be led above or below it. Social science, as a kind of positivist science looks below, to find out why people will as they do, because of their income, sex, race, locality, and other determining, possible to be measured criteria of social science. The majority of social scientists agree that constitutional checks on popular will are necessary. Such checks are based on a calculation of self-interest, a more determinate and predictable motive than virtue. But they are unable to say why they approve of them. As a consequence, their theories belie, in fact, their sense of responsibility and their political judgment, and issue in a certain *democratism*, which is the result of seeking determinacy. Social scientists see that the forms of the Constitution do not surely elevate popular will, as intended; they believe their analyses show that only certain fortunate minorities are surely elevated by these forms, for example, property holders. The consequence of social science is to debunk these groups as 'elites'. When social science rejects the explanatory value of the constitutional in favor of the extraconstitutional, it necessarily denies the political contribution of those who claim to use the constitutional forms as intended... The democratism of social science is a strange one, however, because it discloses a democracy without a people—that is, a democracy in which the people are not a whole. The people could be a whole only if their will were a whole, if it could be understood as an intention with a common good. But since there is no guarantee of this, social science seeks indeterminants of popular will, as we have seen. But in seeking those determinants, social science dissolves the people's will into wills. Different groups in the people have wills that are determined differently. Since there is no determinate common good, one cannot speak of 'the people'; even a 'majority' is made up of not for good or ill, as in *Federalist* No.10, but arbitrarily. All democratic politics come as bargaining, every democratic majority is nothing but 'a coalition'. But if this is the case, minorities or elites must necessarily prevail in democracy. Partisanship for democracy turns out to be merely partisanship for the groups that the social scientist happens to prefer within democracy.³⁵

There is, Mansfield suggests, a great impatience with such constitutionalism, and a dangerous one at that. It brings social science as a superior tool of determining the goals of the community, and as a consequence tries to bring executive power to act against the people's expression of immediate, constitutional will in allegedly their best interests executed by the elites. But such a stance usually views a definition of people's interests as commensurate with the interests of the elites, who know best what ordinary people want. This constitutes a paternalistic, disdainful attitude towards those who do not want to recognize such elites as having a better insight into the political and existential, in fact, matters, as being, in wit, wiser. This conflict creates a silent resistance of the society at large, which thinks that there is a hidden alliance between elites, in this contemporary case, mainly liberal-left elites and minorities which act against their concept of life, their freedom. On the other hand it causes impatience and a revolt of the elites against their own societies.

Such a revolt of the elites against their own traditional societies has been inherent in the European liberal culture at least since the French Revolution of 1789, and has become a permanent feature of the Enlightenment mind so well described by Goethe in *Faust*. But it got a radical boost in the wake of the 1968 countercultural revolution which made such ideas as "liberation" from any authority, as well as "the private is political", geared to the new anthropology of autonomous self as a sovereign source of moral judgment its sine qua non condition of legitimate society.

³⁵ *Ibidem*, p. 224–225.

Such a revolt of the elites against the masses in America was essentially a much later phenomenon and has met with much stronger resistance of the American people for reasons of them being better organized, less dependent on the welfare state, financially more abundant and ready to challenge such tendencies from bottom up by a process of self-organization. Nevertheless such a revolt began clearly at the turn of the 20th century with progressive liberalism, psychotherapy as a new science of adjustment to the progressive society, and last but not least the split within Protestant Christianity into a fundamentalist and progressive, social gospel wings, the latter increasingly playing the role of justifying the various liberal progressive actions of the elites against recalcitrant society.³⁶

For Mansfield the best protection of rights in the U.S. Constitution was, in general, the principle embodied in the very text of the Constitution as written in 1787, before the Bill of Rights was added. In other words the best way to protect rights was through proper institutions.³⁷ The Bill of Rights had a potential of going beyond that principle and in fact changed the terms of the debate, even if what might be at stake was not entirely clear. This danger was somehow sensed by the Federalists and the Anti-Federalists, the Bill of Rights' main proponents. The latter disregarded this fear too lightly, except maybe "Brutus", whose logic of the expansion of the Supreme Court power should have made him more cautious as far as putting too much stress on the formal Bill of Rights. Nevertheless from the time of the adoption of the Constitution to the Civil War, the view was that individual rights were in essence constitutional rights, the language and the logic of the Declaration of Independence being suppressed, or better to say disregarded.

The rights were to be protected through the employment of proper institutions, something visible in the Acts of Congress, as reflected in the Judiciary Act of 1789 or the U.S. Supreme Court judgments. In a more pernicious way this interpretation was visible in the Southern states' adamant efforts to treat states' rights as a means of preserving slavery, or from a different angle by the Northern states' attempts before the Civil War to impose particular state laws nullifying the application of the federal fugitive slave laws. The Southern strategy was ironic. It ostensibly diffused a classical Hamilton's and Madison's Federalist argument against the federal Bill of Rights. But from the Federalist perspective, the states becoming the principal defenders of a model of using state institutions to secure rights, were in fact mocking the very essence of rights and the whole constitutional system.

³⁶ On this revolt of the elites in Europe as contrasted to America see: A. Bryk, *The United States, the European Union, Eastern Europe: Challenges and Different Responses to Modernity*, "Krakowskie Studia Międzynarodowe" 2008, No. 1, p. 206–227; the post-1968 analysis of the phenomenon, especially in America see: C. Lash, *The Revolt of the Elites and the Betrayal of Democracy...*, New York 1994.

³⁷ This was visible, for instance, in James Madison's letter to Thomas Jefferson of October 17, 1788, [in:] *The Mind of the Founder: Sources of Political Thought of James Madison*, ed. M. Meyers, New York 1973, p. 205–209. For a good exposition of this aspect of institutions as protectors of rights see: M. Diamond, *The Founding of the Democratic Republic*, Itasca 1981, also his: *The Separation of Powers and the Mixed Regime*, "Publius" 1978, Vol. 8, p. 33–43.

For some, this crucial step of transformation was taken by Abraham Lincoln, who appealed to the Declaration of Independence's language of natural rights, especially equality, as a controlling and interpreting value of the entire American constitutional system. For some, like Harry Jaffa, James McPherson or Garry Wills, this reinterpretation of the American constitutional tradition in the light of the Declaration of Independence was not only logical, even if forgotten, but desperately necessary to make the American political practice commensurate with exactly the very essence of the American constitutional tradition. For others, like M.E. Bradley or Wilmoore Kendall, such an interpretation, whatever its motives, was revolutionary, in fact subverting the U.S. Constitution, and unleashing a train of thought which would make this principle of equality a loose canon and a pernicious influence on American political life, eventually subverting it against the best efforts of the Founders.

This argument between the two camps was honest, not entirely commensurate with the traditional liberal and conservative split, and amounted to a difference between a faith in the automatic efficacy of the constitutional institutions, even if delayed, to rectify the practical wrongs of the American system, and the necessity to go beyond the institutions and appeal beyond the Constitution to eternal rights, natural or divine, to bring the Constitution in accord with its true potential. Lincoln's interpretation got a boost through the adoption of the Thirteenth, Fourteenth, and Fifteenth Amendments, which enabled a clarification and constitutionalization of individual rights and opened a debate about what constituted individual rights within the American system, with courts added to traditional legislatures, beginning increasingly to enforce those rights. During the course of the next century the individual rights, the interpretation of which became increasingly the province of the courts, began to be interpreted not only as rights stemming from the Constitution itself, but from humanity, that is natural rights defined as modern human rights as such, if need be requiring an alteration of the U.S. constitutional system.³⁸ The change was radical, although not visible for a long time, and amounts today to a crucial question what are the ultimate sources of legitimacy of the U.S. political system, the Constitution stemming from the will of "We, the people", or the human rights.³⁹

In the 1950s and '60s this movement towards enlargement of individual rights reached its nadir, being imposed by the Supreme Court verdicts, in the wake

³⁸ The expansion of rights was very much strengthened, of course, by the concept of unenumerated rights which the Constitution allowed, with the Ninth Amendment being interpreted as a license to this, the unenumerated rights being a safety valve retained by "the people". See on that a voluminous literature, for instance: *The Rights Retained by the People: the History and meaning of the Ninth Amendment*, ed. R. E. Barnett, Fairfax VA 1989, 1993.

³⁹ See: J. A. Rabkin, *Law Without Nations? Why Constitutional Government Requires Sovereign States*, Princeton 2005; A. Bryk, *Is a Nation State Obsolete?*, [in:] *America in Transition*, Warszawa 2010; R. H. Bork, *Coercing Virtue: The Worldwide Rule of Judges*, Washington D.C. 2003; from a slightly different perspective of Europe see C. DelSol, *Unjust Justice: Against the Tyranny of International Law*, Wilmington DE 2004; P. Manent, *Democracy without Nations: The Fate of Self-Government in Europe*, ISI Books 2007, and his *A World Beyond Politics? A Defense of the Nation-State*, Princeton 2006; R. Hirsch, *Towards Jurisocracy: The Origins and Consequences of the New Constitutionalism*, Cambridge MA. 2004.

of “Brown v. Board of Education” of 1954, on the legislative agenda and executive orders of presidents. Civil rights increasingly came to mean individual rights in the most radical sense, the right of every individual to be free of all but the most minimal external constraints, including group constraints, including also constraints of the communal norms.

Here the countercultural revolution of 1968 and the New Left concept of “liberation” and “emancipation” from every “oppression”, accepted into the mainstream of progressive liberalism provided a perfect match to such a tendency of interpreting rights. This was the case, again as the New Left slogan declared, especially in its feminist version, that “the private was political”, that is that every facet of human life was riddled with unequal, a.k.a. unjust relations. The rights began to be treated increasingly as a province of human wants and desires, defined by an autonomous self’s moral autocreation of self-explicating reason. This was coupled increasingly with an idea of civil rights as being in congruence with human rights, gaining legitimacy in the international context. Created as the sole justifying characteristics of a just political regime in the wake of the Second World War, they slowly ceased to be defined by the then prevailing Christian anthropology and ontology, referring instead to a generic concept of human dignity as its justification. But that concept meant in practical terms that humans have rights because they have dignity which is expressed in rights, which is essentially a circular argument. Such dignity becomes, in fact, defined by an autonomous self, demanding rights from others and the welfare state without any pretence of universal justification in relation to a criterion higher than an autonomous moral autocreation.⁴⁰

We have increasingly got into a postmodern conception of rights defined simply as including both liberties and entitlements. In such a situation people are at liberty

to do what they will, provided that what they do does not seriously infringe upon the rights of others to do the same... [Moreover] individuals are free to do almost anything, but the civil society, usually in its institutions of government, is expected to guarantee individuals their basic needs and more-in essence entitlements... Accompanying this shift is the loss of the general consensus that there is an Author of Nature. Belief in God is still the predominant popular belief ... But the new image of God is one of a benign crutch who makes almost no demands other than we love one another [whoever we are and whatever we do]. This God is no longer seen as the best owner or definer of rights and obligations, or even as the Author of nature, from whose moral order rights and obligations flow. This causes matters to be much more fluid and easily fosters the new understanding of rights as liberties and entitlements. This further sharpen and clarify the contrast between modern and postmodern conception of rights ... The principal modern rights – life, liberty, property, and the pursuit of happiness – were Aristotelian in nature. That is to say, they had some view of civil society as a comprehensive whole. The triad of postmodern rights – welfare, expression, and privacy as liberties and entitlements – are Epicurean in nature; they have to do with the individual, not with civil society. No social dimension is necessary involved here... The isolated individual takes precedence over any social dimension that might be introduced... The new doctrine of rights treats the moral autonomy of the individual as an absolute. This is the total reversal of

⁴⁰ P. Manent, *The City of Man...*

the earlier understanding of rights as growing out of civil society ... the moral truth of the correct moral theory is replaced by relativism. Whatever the moral beliefs of the people happen to be will determine what rights the people have. Under such circumstances constitutionalism itself is challenged. Under the original theory, although the constitutions could be interpreted often with great liberality and flexibility, still they had a veto over actions that went beyond a certain point—that is, were unconstitutional. That indeed, was the whole purpose of a constitution. Under the relativistic conditions of postmodern understanding of rights, the most that a constitution will have is a vote. This eliminates the whole purpose of constitutionalism and opens up unlimited possibilities for a relativistic system of rights and actions.⁴¹

In other words a constitution ceased to be an instrument for protecting particular people defining for themselves a good concept of life as a community, subject only to periodic alterations. It became a framework of ensuring rights and entitlements of individuals defined by an autonomous self, with courts guarding access to such rights in the public sphere, and state agencies having obligations to fulfill such rights and entitlements whatever they are, subject only to limitations of peace and order, and guaranteed by an increasing motley of administrative rules ensuring the non-collision nature of such entitlements. A state, subject to such demands and obligations, gradually abandons its political character, becoming a purely administrative body of the therapeutic welfare state.⁴²

Mansfield stands at the center of this debate, although his argument is as nuanced as it is prudent. His conception of rights is taken from the classical liberal tradition as represented by John Locke and the American Founding. The old rights as presented by them, he claims, were the rights of man, that is human beings who had a fixed nature and lived also according to alterable laws and customs. Men of course have by nature the power to alter laws and customs, thus one can say that their nature is partly fixed and partly alterable. But the rights pertain to the fixed part and thus they are inalienable, and cannot be taken away by bad customs and laws, because they are not granted by good ones. Without fixed human nature, there could be no inalienable rights. Natural rights belong to natural man, that is a man in a state of nature, not in the sense as Rousseau conceived them, but in the Biblical one in the Book of Genesis. In the United States these were the rights to life, liberty, and the pursuit of happiness stated in the Declaration of Independence of 1776, the rights for the sake of which Americans established the Constitution of 1787.

The rights secured in the Constitution are civil rights, like the ones written in the Bill of Rights. They are more specific and more limited than natural rights, since by entering civil society people deprive themselves of the exercise of natural rights in order to establish a constitution securing precisely such rights. In other words, rights are defined by law in a concrete, precise, operational way. For Mansfield therefore there should be a necessity of constitutional form standing over natural rights. The Consti-

⁴¹ D. J. Elazar, *How the Present Conception of Human Rights Shape the Protection of Rights in the United States*, [in:] *Old Rights and New*, ed. R. A. Licht, Washington D.C. 1993, p. 46–49.

⁴² See on that, for instance, P.E. Gottfried, *After Liberalism: Mass Democracy in the Managerial State*, Princeton 1999.

tution of 1787 thus puts, Mansfield claims, its own form before the end it serves, as a kind of a safety valve. Crucial for this transformation from natural rights to civil rights is the consent of the governed to a government with the power to make and enforce laws. This right of consent is both natural and civil, and a crucial bridge between natural and civil rights.

It is true that the Founders, for instance Madison, claimed that the ultimate aim of a constitutional system was justice, “the end of government”. Mansfield, though, does not want to claim that the standard for rule is the regime itself, a position close to mere legal positivism. But nature and reason were not enough to define the proper means of governance and the proper scope of rights. They have to be filtered by the constitutional mechanism of consent, construed in a deft way, so the moral sense of the people, equal politically in a process of consent, can show itself. Thus the people use their right of consent to establish a constitution that secures and thereby limits their rights, specifying certain civil rights in the Bill of Rights. But

the principal security it offers, more than the naming of those rights, is the form of government it constructs. A well-formed constitutional government gives effect to the right of consent, which would otherwise remain abstract. In such a government the majority rules, but not a factious, willful majority. With such constitutional provisions as the separation of powers and federalism, the ruling majority should be a constitutional majority. Though of course partisan, it should be respectful of the rights of the minorities and mindful of the common good. Without a working constitutional government a list of rights is of little account, even if all agree on their desirability. Not merely the judiciary but the whole government serves to secure rights; and this means that prompt executive action is as necessary as careful legislation and wise adjudication.⁴³

Rights in the old conception have two opposite qualities, thinks Mansfield. They are formal and they are connected to interests. The formality of rights refers to a difference between the formal possession of a right and its actual exercise; it is the business of government to secure the former and not the latter. We have to execute our rights. If a government exercises such a right for the people, then the people have no rights. Formality of rights causes difficulty, of course, since, as Mansfield claims,

though rights are equal formally, they are in practice necessarily unequal. Natural differences in human nature, combined with the variance of luck, will cause some to exercise the right of free speech or the right of acquiring property more successfully than others. A gap between the idea of equal rights and the reality of unequal exercise will appear it is an inevitable feature of any society based on rights. An attempt to close it completely would require so much force and regulation that the rights intended to be secured would in fact be suffocated. Any such attempt would inevitably contravene the right of consent or the right to vote.⁴⁴

But the rights are connected to interests, an eighteenth-century feature added to the Lockean conception of rights. Interests are of course opposite to the formality of rights, since they describe in general how one can expect rights actually to be

⁴³ H. C. Mansfield jr., *Responsibility vs. Self-Expression*, [in:] *Old Rights and New...*, p. 98–99.

⁴⁴ *Ibidem*, p. 99.

exercised. But interests are not commensurate with a whimsical desire about what one wants to do. Interests, as Mansfield understands well, are not tantamount to license but normatively to virtue, or should be educated this way. Our interest

derives from our human nature, but it is not confined, like natural rights, to the state of nature; it continues with equal or heightened alertness into civil society... Through the connection of interests, rights gain not only sobriety but also many supporters, whose interests lie in the maintenance of the rights by which they profit. Since interests derive from human nature, they are active in all human societies... [But] what interests consist of?... They are an average reason joined – and confined – to an impersonal self. [The United States constitutional system] relies [thus] on a sense of responsibility. Responsibility is the rights-based transformation of what used to be called duty or virtue. Duty implies devotion to something higher than ourselves, and virtue implies a concern with perfection of one's soul. Both can be found in a society of rights, but they are not truly consistent with its emphasis on the self-preservation of individuals. Rights seem to say that human beings are sovereign and that devotion to a higher being or a larger whole is a matter of choice, not duty. Virtue is self-assured, as one cannot be fully virtuous without an awareness of the worth of virtue.⁴⁵

But virtue calls for perfection, thus as Edmund Brudke rightly said, seems to be limited to a few. It also requires us, even demands to admire, even abey, those few. Virtue is not tantamount to the equality of rights. But responsibility is of human origin and it is democratic. Responsibility is the act voluntarily taking charge of a situation in order to improve it. Such responsibility is exercised in the context of rights and interests, which constitute two pillars of human moral life, but is not identical to them. Human right is wider than his responsibility, but human interest is narrower. Liberalism in practice needs responsibility, because rights and interests are too theoretical to suffice for themselves. That is why many people have to be willing to take actions for which, in rights theory at least, the lack sufficient reason. The old conception of rights grounds them in the human nature that gives human beings certain abilities. For this reason, one does not have a right without an ability to claim it. Thus the best evidence for this ability is the actual claiming of right by someone.

One must ... 'stand up for' one's rights. When one stands up for his own rights, he also stands up for others in a like situation. He renounces inactivity; he refuses to 'take this sitting down'. Perhaps a certain aristocratic sense of honor and generosity is at the origin of the democratic notion of responsibility. Through the notion of responsibility liberal democracies recapture the love of the noble and the concern for the whole that seems so foreign to them and yet so ineradicably human. That achievement is the basis of Uncle Sam. To summarize the old rights... They are derived from a fixed human nature; they belong to competent individuals; they are equal; they are protected by private property; they are divided into natural and civil rights; their key is the right of consent; they are constitutional; they are formal; they are connected to interests; and they are responsible. Every one of these qualities is denied or radically modified in the new rights that are claimed today.⁴⁶

⁴⁵ *Ibidem*, p. 100–101

⁴⁶ *Ibidem*, p. 101–102.

What are these new rights? Mansfield gives one of the best analyses of the new situation of liberal societies subverting themselves with this new conception of rights which were decoupled from responsibility as such. An idea was that

rights are not secure unless they are entitlements, protected from the common good. [Thus] judges have expected the rights of defendants without regard to the effect on crime. The women's movement has gained equal rights for women without considering, or in some cases caring, for the consequences of the family. In particular, the right of abortion releases fathers from responsibility for children because it necessarily implies that every child is born through the sole decision of the mother to abort ... the rights were conceived and established without regard for, and even in defiance of, their effect on responsibility. The new rights are irresponsible not so much because they are careless of the cost-benefit equation, or because they are insufficiently utilitarian, as because they make people irresponsible: 'I have my right; it's up to you to adjust'.⁴⁷

This new conception of rights was born with Friedrich Nietzsche's doctrine of the creative self and came to American politics in full force in the 1960s, coupled with the New Left slogan of "liberation" from all oppressions. But German historicism taken from German philosophy influenced American pragmatism, which in turn influenced the progressives, both the most influential intellectual movements as for as theory of rights. According to Mansfield pragmatism, generally thought to be quintessentially American, was in fact subverting American tradition since

it denies human nature and thus subjects rights to the contingency of circumstances. That historical circumstances could be harnessed under democratic control was the reformist faith of the pragmatists, the progressives and the New Dealers. But with the abandonment of human nature, they lost the rational ground of rights and launched themselves, to some extent unwittingly, towards Nietzsche's unfixed self, the self that has to create itself. This new self, lacking any natural definition, is obliged to define itself by self-expression. It is obliged, that is, only to the extent of its energy. Those selves who are content with convention – or too weak to oppose it – will allow themselves to be defined, passively and unauthentically. The creative ones will lead them, not by seeking their counsel but by pushing them aside. The creatives are not obliged to respect the rights of other selves that lack a natural definition requiring respect, that are inchoate, malleable, or conformist. Equal respect goes to those equal in nature; if there are no natures, men are equal only at their uninformed origins. As they 'find their identities', and acquire qualities, they become unequal.⁴⁸

But Mansfield shows how this inconsistent doctrine rooted in the idea of an authentic and autonomous self, having a tendency to be egotistical and subjugating the weak, is eager, more than ever at the turn of the 21st century, to push for an expanding list of rights, allegedly protecting the weak. This stems both from inconsistency in the doctrine itself, with people who carry it still moored in the old instincts of moral equality dictated by nature, and from certain paternalistic tendencies of the elites having an urge of *noblesse oblige*, towards, as John Rawls called them, the "least advantaged". But since no natural basis for equality exists any more, equality depends on public recognition, meaning "equality in public es-

⁴⁷ *Ibidem*, p. 102.

⁴⁸ *Ibidem*, p. 103.

teen". Public equality is the only recognizable aspect of rights and the demand to push for it is incessant. This is a push for equal status which of course never ends, the process analyzed well already by Tocqueville or Weber. If you are not equal in full public recognition, you do not exist as an equal bearer of rights, since there is no intrinsic value of what you do or who you are in relation to human nature. You exist because you are public, and your right is what you demand in public on the basis of your autonomous decision and on the basis of morality which is essentially a form of moral auto-creation by sheer will.

Thus a right is something which is commensurate with the public recognition of a desire of a moment, even if justifications for that right might be elaborate. This way the definition of a human being changes. The human being has no intrinsic value any more, no human dignity in relation to a fixed nature and nature's God which gives him or her an untouchable ontological position, irrespective of what the public image of that is. Human dignity is now defined solely in terms of rights, defined in turn as the totality of actual desires of an autonomous self. The human being thus becomes a possessor of rights which he or she defines increasingly for him/herself on the basis of an autonomous will, without any universal reference pointing towards immutable, unchangeable nature or God. As such, an individual demands full recognition of himself on equal basis with others, defining human dignity as a full recognition of the totality of his desires defined as rights, for a simple reason that he or she possesses no criteria of differentiating between them on the basis of any value judgment and hierarchical ordering.⁴⁹

Mansfield shows this paradoxical debasement of the modern concept of rights in relation to nature and a push for a public recognition of equality of rights, in fact a baing recognition of desires, especially in relation to women. This is so since such a concept of rights greatly affected relations between sexes, pushing women into a position of competition for public recognition. Until this change occurred, women had largely been excluded from "responsible positions", that is jobs recognized as having public reputation, not solely by the fact of having formal rights denied. But women recognized then the highest value of ordinary tasks of life for a civilized order of human relations and relations between men and women in general, as being of equal value to public tasks in the limelight. They had no need to prove themselves to be equal to men in moral terms, recognizing the equal moral status of complementarity.

Now, due to a new feminist understanding of equal rights,

women may still feel drawn to the woman's job that is never done, but because their identities must be created by public esteem, they have no justification for doing what they very well see still needs doing. The new rights of equality do not put supper on the table. They only make women who do cook feel like fools.⁵⁰

⁴⁹ An excellent exposition of this problem from another angle is in P. Manent, *The City of God... and A World Beyond Politics?*...

⁵⁰ H. C. Mansfield, *Responsibility vs. Self-Expression*..., p. 103.

There are dire consequences of this new conception of rights, which creates an unpredictable, insecure individuals, ever thirsting for a position of power. This happens for the simple reason that creative beings in such a situation become open-ended. Their only mode of operation is will, moral-autocreation and the constant fever of transformation in the process of thirsting for something new in the future, allegedly better, at least in terms of refreshing one's image in relations to others, and thus being recognized by others. The open-endedness of one's life requires constant movement; there is no stable point of reference in relation to which one can psychologically, morally and eventually psychically rest.

The whole life becomes nomadic, shifting sands of existential anxiety. Relative beings are open-ended not merely in their formal potentialities yet. Such beings in fact have great difficulties recognizing their own interests; in fact they do not have them, for

who can say what is in the interest of a being that is becoming something unknown? Thus the society of new rights is characterized by a loss of predictability and normality: no one knows what to respect, even from his closest companions. Under the old rights the notion of interest was used as a lever to pry individuals and groups out of the fates destined for them by tradition: it was in one's interest to get ahead. But now those interests are seen as confining; instead of liberating they imprison their victims in stultifying 'roles'. A role is where one has been put formal promise of liberty. In the case of women, the system of new rights does not permit one to consult women's interests to see whether they are likely to benefit from equalized rights. Nor are women given any guide except the trend fashion, which is ambivalent between work and home. What remains is choice, unguided and untended by society, as if it did not matter whether women like to have children and whether society needs them. To put it mildly, the element of society supplied by the notion of interest to a rights-based society is forgone.⁵¹

The consequences of such a conception of rights for political life, as Mansfield observed, was grave. In such a situation, government is not needed to moderate natural rights in this new scheme, nor does it provide a framework for an expression of consent which moderates between natural and civil rights. The activity of citizens as a community, and with that the indispensability and necessity of government, are not so sure any more. The formulation of rights is increasingly being done, as Mansfield said, by philosophy professors, not political scientists. Liberalism was a doctrine which originally was concerned with conditions under which rights were surrendered as well as conditions when rights were elaborated. Liberalism, in other words, was originally about something political philosophers forgot, it was about constitutionalism:

the making of a government to control and to be controlled by the people. The constitution of that government is the focus of attention because all rights are secured by and from the government. Its form or structure secures rights by governing under law, so that the rule of the majority is the rule of a constitutional majority as opposed to a factious majority. The new rights, however, are postconstitutional. Since self-expression is the norm, the new rights have little to do with self-

⁵¹ *Ibidem*, p. 104.

government. Self-expression can lead to 'participation', especially in demonstrations of protest, but such participation shows little respect for the persuasion, deliberation, and moderation that constitutional structure encourage. Promoters of the new rights look on the Constitution as a system to be manipulated – hence, part instrument, part obstacle. They do not think that they live under the Constitution, much less that it is a fundamental law to be venerated. They believe that government is for providing services and collecting taxes, and they would be hard put to say what makes it free.⁵²

Human beings, having thus creative rather than natural selves, are in a process of constant self-creation, including moral autocreation. But they do not know their own selves since they do not exist as stable natures. They are just constructs in a fleeting moment of time and an assemblage of personality to fit a particular desire. Their personalities, their selves are thus constantly in the future, since there is no resting moment when one can "find" oneself. This causes an incessant existential angst, a feeling that one is never in the right place and for this reason must strive for more, so as to find one's true self. This moment of liquidating such an existential anxiety, that is the moment of liquidation of alienation, can never come, since a human being cannot save itself by itself. It can only rest in a transcending Being which gives an individual a universal and lasting identity and protection. The constant search for a true identity of this new "liberated" creative self is like running on a treadmill for eternity, a senseless existential predicament.⁵³ Since creative individuals cannot know their true selves, since they can never be pinpointed for more than a fleeting moment in the time and history of the incessant march of auto-creation. They can also not know the selves of others, and precisely because of that, they cannot have any respect for their rights. The others' rights are simply equally fleeting states of mind and psyche on the way towards constant autocreation. Self-creation of all nullifies any gravity of any claim whatsoever. There simply cannot be any reason why such a claim should have a universal validity for others to recognize and respect it, since there are objective criteria of judgment towards which such a claim can be subjected. But there is another consequence of such self-creation of individual existence and with it the rights.

Self-centered, self-created individuals are simply busy with their own lives, they become obsessively narcissistic, including their own rights. They not only do not bother to persuade others to accept the latter, since they have absolutely no universal criteria of validity through which they could persuade others to accept them, but they also do not want to be bothered by the persuasion of others, who in turn also think the same way. The very idea of rational public debate of a community, that is a way of reaching a consensus and formulating legitimate consent, is gone. Politics, as life itself, is not only inauthentic, but it has to be that way, since individuals have abdicated any pretence that their self-created wills and lives could have any universal coherence and gravity extending beyond their individual, subjective

⁵² *Ibidem*, p. 108.

⁵³ P. Haffner, *Creation and Scientific Creativity: A Study in the Thought of S.L. Jaki*, Fort Royal 1991, p. 72.

desire for a moment. They are pure historical beings, where past history, as Henry Ford famously remarked in another context, was sheer bunk, with no meaning related to anything. Creative individuals can relate nothing in their lives and history to a definition of themselves as natural beings, with a fixed nature, in other words with a definite anthropological and ontological core transcending their constantly shifting self-definitions.

A human being becomes truly a God to himself or herself, creating the situation so poignantly observed at the end of the Roman Empire, that there were so many gods that it was impossible not to offend at least some of them for some of the time. This is a condition of a disintegration of society as such, the state of a loss of meaning, with individuals left as solitary beings in search of their true selves, and with fear of others, who might prevent their desires from being realized. It is for this reason that “the rights of historicized beings are impossible to distinguish from wants; even ‘needs’ come to mean ‘felt needs’”. These wants alternate in status between posited rights whose positing is not necessary but is merely asserted – the deontological view, according to contemporary philosophy – and preferences, capable of being ‘traded off’ for one another – the utilitarian view. Their status alternates because, in practice, proponents find the first view too absolute and the second too relative. They have abandoned the distinction between natural and civil rights, by which the absoluteness and the relativity of rights are reconciled through the right of consent. They have substituted for it two partisan views that cannot be reconciled and hence must be alternated”.⁵⁴ The consequences of such an approach are grave. When rights become wants those with wants are no longer pushed to claim their rights and to fight for them, and once gained to defend them.

Rights in other words are a consequence of freedom and of conscious citizenship, or to put it a better way, a political expression of common humanity of equal moral people. But wants are merely passive; they do not require conscious efforts to gain or defend them; they may be an equivalent of animal functions which, whether psychical or psychological or merely emotional, can be provided by somebody else. In such conditions when modern rights are understood as wants, they may be provided by proxy, which means by the elites, or elite groups which may make necessary claims on behalf of those who want. Wants can be realized by means of rights, but they can as well be realized irrespective of rights, by others exercising such rights in the name of those who just want to fulfill their wants. This is an observation which Tocqueville made in *Democracy in America*, in a language of equality as a factor which gives the welfare state its full power of control over people’s lives.

But wants are not presented as such. They are presented as rights, since there is nothing in a formal contemporary definition of a human being which would distinguish them from a mere self-definition of one’s condition on exactly this basis of mere desires, that is wants. For these reasons wants presented as rights force individuals to claim them in equal measure, and if they cannot be gotten in a nor-

⁵⁴ *Ibidem*, p. 109.

mal, individual way in a political democratic process, they are being claimed from government as an entitlement. Governments, prompted by elite groups, will step to guarantee those rights, in effect exercising them better than an individual. When government intervenes, it does not have the right to seek someone's consent or the consent of his fellow-citizens, because one's consent may be too weak and one's fellow citizens may disregard it, overlooking his wants. Under such circumstances

the new rights become 'entitlements', originally a technical term for claims on a budget that must be paid out regardless of how many claim them. Entitlements are thus secure from responsibility to what the common good may require. . . . Entitlements do not result from a potential or actual contribution of the entitled to the community: not requiring any prior or subsequent action, they do not reward rights responsibly exercised. We can certainly get someone else to demand our entitlements for us, and we can get someone else to apply for them on our behalf. We do not have an answer for how we spend our entitlements, since any failure, for example, to find decent housing, is accounted to society, and the remedy is to extend its responsibility to equalize".⁵⁵

Equalizing proceeds by denigrating past progress in rights as merely formal, not serious, while at the same time demanding that society be perfectly equal and thus to equalize all relations in infinite approximation. This causes a situation of anxiety, anger, restlessness and *la lotta continua* to equalize everything, but on the other hand such a society of entitlements is rather static, with special interests guarding their turf and demanding rights, that is wants, for themselves as they understand them. This way they make themselves dependent on government largesse or administrative and judicial rules, and in the process becoming restless, suspicious, demanding and ungrateful, incompetent, and last but not least utterly post-political. This means passive and abdicating any interest in public affairs, let alone interest to participate, producing a society of utterly non-communal individuals, without solidarity and without any ethic of responsibility.

However, the more individual wants, defined as rights, demand from society and government their due on the basis of their autonomous will of the unencumbered "self", the more they want to guard their privacy to enjoy their subjectively defined wants, i.e. desires from any outside intrusions, whether of others or government itself. This is the reason why the right to privacy is the sacred right of the unencumbered "self" of the modern human being. This new right to privacy is at the surface guarding against government, but in fact it increases dependency on it, increasing, not diminishing, responsibility for personal rights. Of course, the old rights were all private rights, belonging to private individuals, but they were at the same time civil rights, that is limited for the sake of others' rights and the common good, in which the responsible individuals with rights engaged themselves.

The modern right to privacy is yet different. It attempts to define that right irrespective of others and community, a sphere into which others' rights and community requirements cannot enter. Such rights today might be, for instance,

⁵⁵ *Ibidem*.

a woman's right to abortion or a homosexual's right to "marry". The most baleful effect of such a right is a colossal misrepresentation of privacy which becomes an absolute, a kind of solipsistic engagement in one's own life as a solitary experience. In fact privacy traditionally belonged to the province of civil society; it was a right to do with others things which government was not allowed to interfere with. Others – that is family, friends or private associations. There was never the right to privacy to shape one's own life outside a moral framework of decent, moral life, against others. Absolute privacy is available in solitary confinement, of course, but its consequences are far-fetched in other areas of human life. It causes a dismantling of human solidarity and responsibility on a massive scale, for the simple reason that such qualities of character require sharing one's privacy understood as a sovereign will to do with one's own life what the unencumbered "self" wills. Absolute privacy renounces any ties with others as an unnecessary burden causing others to do the same towards us.⁵⁶

Abortion in the United States provides a perfect example how such privacy had to be construed, first by government. It is not only a right to be simply claimed and recognized by an individual from government. It became much more than that. The Supreme Court seized on the right to privacy to defend an unmarried couple's use of not only contraceptives, as was the case in the "*Griswold v. Connecticut*" case of 1965, but also in a way which denied any family interference in the individual choice of abortion in "*Roe v. Wade*" of 1973. The right of privacy defined that way was willfully construed by American government in a massive way of transformation of culture, where this new right of privacy in fact reflected this government's decision to define what is private and what is not, and then sustain that condition by the government's power. Thus, because the government defines what is private, it has to intrude on the private.

When this government upholds laws which ban contraceptives and abortion since they were democratically defined as being against the common good, this decision might be wrong, but the message was clear: to tell citizens that private actions have public consequences which require responsibility. The source and immediate ends might be private, but the manner of exercise of it is to promote civil society and human solidarity as such, that is community. The absolute right to privacy, in turn, cuts itself off from any such accompaniment, encouraging citizens to forget their citizenship and to become solitary individuals unencumbered by anything but their private solipsistic wills of autonomous moral "selves". Government, or better to say a polity, ceases to be a communal affair; it is just an administrative body through which individuals have their solitary rights. Such rights are first secured,

⁵⁶ Thus the absolute right of a woman to abortion and its underlying philosophy of "my body, my child" causes men to look at women as a sexual commodity with their right to "dispose of" the unwanted consequences and with a total liberation of them from any responsibility, any caring, in fact any love. In other words I do not want you into my life in such a profound act of creation in which you are a necessary condition of that creation, but only as a giver of semen. The revenge of men treated that way as simple tools of woman's desire to shape her life in a totally unencumbered way might be, and today very often is, total and brutal.

and then absolutely guaranteed, in a kind of moral extremism defined as fighting for rights, with rights defined in their totality as against others.

This is done absolutely irrespective of any communal concern, that is a universal framework of human life, that is irrespective of truth, except the truth of a momentary desire of an autonomous, unencumbered “self”, creating itself in a process of total moral autocreation. Government is here a powerful engine of equalization of rights defined in a new ontological and anthropological way, thus it is an engine of monistic ideology defined by means of rights.⁵⁷ But an additional consequence of such radical equalization of privacy rights is dependency on government, more than dependency on other people, including the closest ones, with taking moral responsibility for them. They have to be responsible for themselves, with government providing institutional conditions of that responsibility. Thus government organizes all the economic, political, moral and emotional energies of solitary individuals into a new kind of communal life which depends this time on politically correct actions, “good causes”, changing according to any new fashion. Loyalty to government and the nexus of powers that be, which define the content of such new causes, becomes this time the essence of patriotism.⁵⁸

Mansfield does not claim that the old rights as civil rights were perfect, including a defect between the right and its exercise. But he somehow shies away from the fundamental question of whether such civil rights have any validity beyond the immediate life of a community, or whether they are, or must be, fundamentally derived from a source higher than consent as such. If they are, what is their source and how can they be translated into civil rights? Mansfield, a student of Strauss, is too much a lover of truth, and with that a lover of classics and the American Founding, of which the Declaration of Independence is a part, to renounce such a source. Nevertheless, he seems to think that consent is still crucial to a discovery of that source.⁵⁹ Such an approach caused one of the most fascinating, if somewhat misunderstood, debates within the Straussian camp [but not only], between the proponents of natural law as a source of American regime, and the proponents of the Constitution as a consensual, institutional framework of deciding the rules of life of American community. The argument is symbolized by two contestants, Harry Jaffa and Harvey Mansfield, with followers on both sides.⁶⁰

⁵⁷ See on that: J. B. Elshtain, *The Bright Line: Liberalism and Religion*, [in:] *The Betrayal of Liberalism*, eds. H. Kramer, R. Kimball, I. R. Dee, Chicago 1999, p. 148–149; also M. Sandel, *Democracy's Discontent: America in Search of a Public Philosophy*, Cambridge Mass. 1996, p. 3–122.

⁵⁸ K. Minogue, *Polityka*, Warszawa 1997, p. 123–125.

⁵⁹ This is a tradition of James Wilson and his concept of a moral sense inherent in everybody and thus possibly to be argued in public by consent. See for instance: R. Rossum, *James Wilson and the “Pyramid of Government”*, “The Political Science Reviewer”, Fall 1976, p. 123–124.

⁶⁰ See a thorough account of the argument, if somewhat misunderstood and not altogether fair to H. C. Mansfield, [in:] *Jaffa versus Mansfield*, www.claremont.org/publications/pubid.2.

Affirmative Action and Tribal Liberalism

Mansfield has also taken up many topics at the center of contemporary liberal monism which seem to him ill-conceived and corrupting. He is a critic of affirmative action, basing it on the right of consent, the only true source of a moral, free society. Affirmative action is slowly beginning to be established as a right of minorities to make demands on society, for a variety of reasons, starting from a demand to rectify past discrimination, and ending with quota representation reflecting group composition in a given society, which would allegedly guarantee a just distribution of power. For Mansfield affirmative action is wrong not only because it undermines individual merit, the essence of liberal democracy. From the point of view of American constitutionalism it “undermines the basic principle of [the American] Constitution”.⁶¹ It subverts a cornerstone of American constitutional system, that is the right of consent, and yields to a temptation to establish a universal law of justice by means of governmental pressures and judicial verdicts, even against such a consent, treating people increasingly as pawns of social engineering concocted by the liberal elites.

In that sense the right of consent, an essentially community right, is the most fundamental right of free people to deliberate about the virtuous life of that community and about rights which may provide conditions for eliciting virtues as such. Modern liberalism, which tries to influence society’s attitudes by governmental engineering, so as to make it allegedly more just and equal, comes close to subverting constitutional government and its basic right of consent as the best way of ensuring a moral life of all. For Mansfield consent is in such a case a basic right stemming from the inherent moral equality of individuals in a polity, but also because all other rights depend on it. Without this right of consent, other rights are merely a gift of government, to be granted as well as to be withdrawn by government. Government, that is a state, comprising all branches, including the judges, may in such a case place upon itself the duty to judge reality outside of people’s consent, or even against it, thinking that it is the government which decides the questions of moral life, thus rights which are to ensure it. In other words that the government is in a position to determine questions of justice against the people, or in case of judges that they can adjudicate in the name of justice and impartial humanity against a particular community at hand.

This also has consequences for the push to establish a worldwide “government of human rights”, a menacing quasi-totalitarian structure, which would amount in fact to the government of “the just” elites, international organizations and the most powerful NGOs, all grinding their ideological axes in the name of human rights.⁶² This trend is against legitimate, sovereign power of the people of the Uni-

⁶¹ Idem, *Pride and Justice in the Affirmative Action*, [in:] *America’s Constitutional Soul*, Baltimore 1991, p. 97.

⁶² See: P. Manent, *A World beyond Politics?...*; R. Hirsch, *Towards Judistocracy...*; J. A. Rabkin, *Law Without Nations...*; C. Delsol, *The Unjust Justice...*

ted States giving their consent to their government. In addition, in American constitutionalism it was understood from the beginning that the right of consent is the right which, when it is

exercised to establish a constitution, other rights pass from natural rights, or human rights to civil rights, rights enforceable by law that are more limited but more effectually protected than abstract natural rights. The right of consent is a matter of justice, because it is just to count each person as one. But it is also a matter of pride, for to count as one, each person must count for something, must be worth something. The right of consent presupposes that each adult is worthy of being taken seriously as a rational creature capable of choice, hence worthy of being persuaded and not taken for granted. His dignity requires that his consent be sought through persuasion, and neither ignored nor presumed. Affirmative action both ignores and presumes. Usually enforced by the judiciary, the branch that is furthest from consent, it ignores white males because they are presumed to be racist and it presumes the consent of blacks and women because of their race and sex⁶³ [which is questionable.]

In other words, there is no other way, claims Mansfield, to build a free and inherently just society based on *virtus* commonly accepted than by this right of consent. There might be a desire to start defining rights in abstracto, and showing a gap between reality and our ideals to take a shortcut to engineering a society according to the logic of right and power of government, including justices to implement that right, for instance according to the abstract logic of justice understood as equality. But this gap between ideals and reality is a gap arising from the right of consent and reflecting the reality that free men are not free of prejudice. But freedom cannot be withheld until all prejudices or inhibitions be cleared away. Otherwise there would be a logical conclusion derived from the opposite statement, that men are worthy of freedom but not of gaining it on their own.⁶⁴

This would entail a presupposition that people are not free and have to wait until government has declared them worthy of it. Such a presupposition, claims Mansfield, would be an absurdity in a constitutional republic, since there is absolutely no logical presumption that government is in a better position to assess the imperatives of justice than a democratic process itself, properly construed, in which a right of consent is expressed. Even if government were take on itself a right to determine the requirements of justice, that would also be partial and dangerous as well, since that might also entail a perverse understanding of justice without a chance of correction, a case, for instance, with the contemporary Supreme Court, treated here as part of government, which declaring a constitutional right is not subject to any control or correction but a possible new precedent.⁶⁵

⁶³ H. C. Mansfield, *Pride and Justice*..., p. 95.

⁶⁴ This was, by the way, the logic of the French revolutionary constitutionalism of 1789, and the inherent tendency of the European elites which have looked at their societies in a paternalistic way, an old tradition rooted also in the medieval *noblesse oblige*.

⁶⁵ "Dred Scott v. Sandford" of 1857 concerning the status of slaves under the Constitution, and "Roe v. Wade" of 1973 pertaining to unlimited access to abortion defined as a constitutional right, constitute the most blatant examples of such judicial actions.

But even if such a choice was properly assessed,

living together in freedom requires more than justice, for after justice has been exacted, people are not always in a mood to live together. To put ourselves in the right mood for free society we must recognize the dignity of being persuaded. This morality of consent requires us to consent, for the sake of our morality, to a gap between reality and our ideals. It also provides a necessary check on our moralism, when we try to rush into reform too confident that those who are opposed are merely prejudiced. Moralism gives morality a bad name and makes free citizens angry and impatient with one another... The right of consent neither prevents us from resorting to compulsion when necessary nor disables us from attempting reform when desirable.⁶⁶

Properly understood, consent operates within certain institutional forms and procedures whose observance requires that citizens have to be persuaded. Consent is registered in legal elections to offices in institutions established by law so that it is clear who is the winner and who is the loser, even if only at this particular moment. But it is the majority which has to be able to act after the minority has been held. A person right of consent

is not violated when he has been outvoted, and his dignity has not been denied when he has been outargued. The forms and procedures of a free government give definition to the dignity of free citizens. It knows when it can act, and we know when we have been consulted. All these forms and procedures, together with the spirit in which they are practiced, have been called constitutionalism. They ensure respect for the means by which the right of consent is exercised, and thereby they secure respect for the right of consent. They constitute a free society; without such forms a society might be tempted to believe that freedom is doing as one pleases, or doing what someone thinks is required by justice.⁶⁷

There is no doubt for Mansfield that affirmative action has no regard for the forms and procedures that serve as protection of the right of consent. Such procedures are treated as obstacles on the way to the universal law of justice, and the new ones are established so as to advance this goal. Justice ceases to be in such a case a deliberative attempt of free people to establish a decent society according to the procedures which ensure dialogical form of democracy and final consent agreed to by all, even if imperfect, and even if in a course of such an action some are temporarily outvoted. Justice it begins to be treated as an ideal guarded and implemented by the self-proclaimed elites acting along the lines of aristocratic *noblesse oblige*, in the name and sometimes against free will of the people expressed through democratic procedures.

That is why, claims Mansfield, what is "worst about affirmative action is the Machiavellian underhandedness of pretence and manipulation with which it aims to secure a good result".⁶⁸ For this reason this inherent gap between the idea and reality is not only a price which democracy pays for being a place of free people

⁶⁶ H. C. Mansfield, *Pride and Justice...*, p. 96–97.

⁶⁷ *Ibidem*, p. 97.

⁶⁸ *Ibidem*.

deciding about their conception of life, but it is also a prudent attempt to establish such procedures and rules so a rush to form a perfect society could be slowed down, an adult understanding of the inherent traps of reality and human existence as such. Prudence is here a proper word which Mansfield uses in many other instances very frequently, and which reflects an understanding that a free society is a delicate and imperfect construction which requires great statesmanship, rightly understood politics and a great dose of humility coming from a sober thoughtfulness, in which political philosophy may be one of the aides.

Gender Feminism and the Incessant War on Men and Women

Mansfield is also a great critic of gender feminism as a form of modern ideology based not only on false, taken for granted anthropological assumptions, but also contributing mightily to a subversion of the delicate balance between sexes. Gender feminism terrorizes both sides with its ideology, and brutalizes both language and mutual relations sowing mistrust and bitterness. Mansfield has touched upon feminism in many ways and many places, but his major work in which he deals with the issue is *Manliness*, a book both about manliness and a not so subtle polemic with gender feminism, in fact the main villain of the book.

Manliness, as Mansfield puts it, is a concept closely related to the one that Plato and Aristotle called *andreia*, for which the usual English translation is “courage”, and it is *andreia* which is his subject. To title a book *Manliness* at the American academy was surely inviting the strict scrutiny of feminist ideologues and their acolytes. But to structure the book in such a way as to defend the very concept of manliness and showing how radical gender feminism destroys it, destroying at the same time mutual relations between men and women, was surely to provoke a torrent of the most vicious attacks from the feminist orthodoxy and its followers, acting like Pavlov’s dogs. In itself it was an act of intellectual and moral courage.

Modern feminism is a hugely diverse set of positions and arguments. Mansfield has no problem with equity feminism, which was sorely needed and which has, in principle, been accomplished. He has, though, an insurmountable problem with gender feminism, also extremely diversified within itself. Gender feminism defines its view of the world on the basis of some a priori stated assumptions about the reality of human life and then tries to reorient it accordingly. The main problem with gender feminism is that it is not verifiable and that it is ideological, and last but not least that there is no definite end point of the revolution it conducts, with the feminist ideologues deciding arbitrarily on the victories or defeats of particular stages of their fight. Or to put it in another words: that in fact radical gender feminism is not about equality and justice, but about a power grab and identity politics, and justifying such a policy with high-brow values aimed at silencing the enemy.

Some feminists would respond, as Martha Nussbaum did, that Mansfield

utterly ignores the existence of male feminists though they are many. Feminism is a concern with justice, not an exercise in identity politics... Feminists, then have not typically sought a society in which there are no gender distinctions. They have challenged imposed and unchosen gender norms that interfere with women's freedom and functioning... What feminists have sought above all is a society in which there are no sex-based hierarchies, in which the sheer luck of being born a female does not slot one into an inferior category for the purposes of basic political and social functioning.⁶⁹

But Mansfield calmly responds that it is not the overt slogans and aims of the radical gender feminist movement which should be looked at, but the verity of the assumptions taken for granted and the means employed to execute them. In other words it is not propaganda which counts, but the congruence of idea with real life, which when found wanting elicits a campaign for social engineering akin to the once executed plan of equating the liberation of workers with the victory of the Bolshevik Soviet Union. Again, as Nussbaum says, showing the utter helplessness of the gender feminist ideology itself,

What non-discrimination means for gender difference is not yet clear, because people have only begun to experience non-discrimination. Using the religious analogy, however, we might predict that once gender is no longer a source of hierarchy and subordination, people will express themselves more and more personally where gender is concerned... In sum, when people are not forced their choices make sense for them and the lives they want to lead. So, too, in relationships, some women will choose flirtiness, others a "manly" directness. Some men will like taking care of children, if government and employers give them decent support; others will try to avoid care, and women will be able, let us hope, to see that one coming in advance and make the choices they want to make in response. Some women attach great importance to that identity, and others will care less. What really troubles Mansfield, I fear, is personal liberty itself, and the diversity that a culture of personal self-expression fostered by non-discrimination, brings with it.⁷⁰

There is nothing wrong with such a vision of a non-discriminating society, except two things which are certainly crucial, and Mansfield knows that. First there is absolutely no end point to the concept of discrimination since we do not know what the concept of discrimination is, or what the concept of non-discrimination in fact means. There is absolutely no way such a society which seeks for itself what discrimination and justice means in relations between sexes can be left to individual means to determine it, it has to be pressured to obliterate a boundary between the private and the public, despite all the disclaimers of Nussbaum to the contrary. Second, there is assumed here the definite concept of a human being as an absolute autonomous individual making choices for herself and himself on the basis of moral autcreation and self-perception of such an individual life, which must be, allegedly, the end point of discrimination. But that presupposes that this is the only

⁶⁹ M. C. Nussbaum, *Man Overboard*, "The New Republic" 2006, June 26, p. 31–32.

⁷⁰ *Ibidem*, p. 32.

legitimate concept of human existence worth pursuing, and that there is no non-discrimination until individuals become such autonomous human beings, absolutely fluid according to their choices.

This means that if there are institutions which profess overtly to shape peoples' characters, like families or churches, according to a different vision of human anthropology, of who a human being truly is, or should be, they are by definition suspect, defined immediately as discriminatory. If so, such institutions should be pressured to give up their pretences to any education or in Nussbaum's vision "discrimination" in terms of an alternative vision, and should be pressured to give up their teachings. This freedom of such autonomous institutions is then obliterated, and with that human freedom as such. Nussbaum would say that the individuals could choose freely also such positions as those autonomous institutions teach them, without inculcating them. This is a fallacy; no one can choose a definite morality as morality without first a vision of a particular anthropology informing it being inculcated into their character by a conscious teaching. Nussbaum's vision understands non-discrimination as a kind of society with solitary, egotistical human beings, including women and men. This is exactly, reading between the lines, Mansfield's concern, an utter inability to teach in such a civilization of any definite character, in a truly Aristotelian fashion, thus to teach *caritas*, which Nussbaum in another place puts as an end of education of autonomous individuals under the supervision of proper pedagogues. She writes that

we want to produce young people who have the sort of courage that [for instance] the rescuers [of the Jews during the war] embody ... we want to be sure that boys and girls both grow up with the capacity for concern and care, and the ability to take responsibility for the situation of others, traits that seem to be sorely lacking in American society today ... so many people in our money and fame – focused society do not get much experience taking care of anyone or anything and are too lacking in a sense of responsibility.⁷¹

It is sheer fallacy to create such concerns in a society in which, first of all, people are pressured to be autonomous beings making choices for themselves. What one may create are not caring individuals, but individuals paying more for the welfare state disposing of the problems of human heart. Second of all, the notion of caring is predicated on a particular anthropology. Caring in such a case, in Nussbaum's vocabulary, includes tending to the poor but also excluding tending to the unborn. In other words Nussbaum's vision is purely ideological and non-pluralistic, that is profoundly discriminatory at a much deeper level than just the relations between men and women. It is fundamentally discriminatory at the level of anthropology, in fact ontology, allowed to be pursued in a liberal society and the one which could not be pursued. It is in fact anti-pluralistic, anti-freedom and anti-politics, to wit totalitarian. And this is exactly Mansfield's point. One can explicate and develop the point Mansfield just implies in more elaborate terms, since his criticism is a critique

⁷¹ *Ibidem*, p. 33.

of a certain strand of liberalism which has a totalitarian potential and threatens the constitutional government *per se*.

Nussbaum, criticizing Mansfield, defines the human being as a person solely through a prism of egalitarianism in all walks of life and in relation to everything, which requires a particular concept of anthropology based on the radical choice of an autonomous subject interacting with other such subjects.⁷² This is a definite anthropology narrowing human person to a particular frame, which also requires a constant overview of human relations and power to execute them according to a preconceived, ideological vision. The egalitarians bear the burden of explaining why their theory should be the sole organizing axis of human relations and governmental policy executing it. In other words they should justify their standards of a non-discriminatory society. This is nearly impossible, since their ideal dictates them standards then applied to a non-ideal, complicated, but first all wonderfully rich society with people living in it. Such an approach is of course extremely dangerous, since on its basis egalitarians evaluate political and private arrangements. And they, of course, are always forced to find them wanting, since this richness of life and the recalcitrance of relations between the sexes belie their best efforts to make such a society operative.

This forces them to apply more and more sophisticated policies to dismantle this rich, actual web of relations between, for instance, the sexes, to use force when necessary, the force of law as well as the symbolic violence of castrating a language and enforcing a particular behavior. They become more and more frustrated and thus focused on a continuous fight for such a nondiscriminatory society, the fight which must go on incessantly, against both the men and the women who are not conscious of their own interests and exhibit false consciousness. *La lotta continua* has to go on and delve deeper and deeper into the private sphere, and then ultimately into the human mind and psyche in a process of forced psychotherapy, ultimately ending with biological engineering when confronted with the resisting barrier of biology.⁷³ There is thus a profound paradox in the feminist thought, stemming from its ideological framework, akin to the once regnant Stalin's idea, for whom the more a society was becoming socialist, the more the class warfare was exacerbating. The gender feminist approach is wrong right from the beginning, since it is based on the illusion that to improve bad political and private arrangements is to make them conform ever closely to an ideal taken for granted and arbitrarily chosen in a process of subjecting the richness of life to a monistic ideology.

This gives rise to policies which are dangerously utopian, since this ideal theory from which they stem are anthropologically wrong, historically uninformed, politically cost-ridden and impractical and, last but not least, morally unacceptable. They ignore not only the actual conditions of particular societies, but also the real freedom of individual human beings, and this fairly tale about the non-discri-

⁷² See on that J. Kekes, *The Illusions of Egalitarianism*, Ithaca 2003, p. 100–105, 107–114, 145–150.

⁷³ On this *la lotta continua* character of such a liberal frame of mind see K. Minogue, *Polityka*, Warszawa 2001, p. 124–125.

minatory society shows the inescapable sinister face of a utopian totalitarian, for whom any fact contradicting the ideal is treated, must be treated as evidence that the conditions of a society are not ideal, that is, in this instance, not non-discriminatory. This is also dangerous for another reason. It puts the burden of shaping such a non-discriminatory society, and individual relations between sexes in it, solely on the social conditions properly construed. Individual women and men are treated as innocent victims of forces beyond their control, forces which gender feminist “experts” and ideologues can dissect and then properly arrange, supposedly having a privileged insight of the wise “chosen” into the intricacies of human existence.

This is a gnostic impulse which requires an enlightened elite saving people incapable of that insight. But there is an additional assumption here, an assumption that human beings are inherently good, that evil is of social origin and with proper social and individual relations this evil will be eliminated. This widespread evidence of evil makes egalitarians absolutely helpless not only in the face of its obvious intractability as a fact of human personal existence, making people somehow relieved of an effort to recognize good and bad deeds morally and to take responsibility for them, including the expectation of punishment and reward, and possibly striving to be better than they themselves are. This evidence of evil as a result of arrangements lying beyond human control, until the proper political and social arrangements have been put in place, makes human beings demanding, and absolutely incapable of accepting any unequal relations between people, any just policies which aim at rewarding or punishing people for their individual moral deeds, in other words incapable of accepting any moral discrimination as just.

Egalitarians, to wit, are forced to accept such a stance and to demand to treat people with equal respect regardless of their moral standing. If such facts of discrimination on the basis of moral judgments concerning individual behavior occur, the egalitarians view them as lamentable and also predictable in an imperfect society of discrimination.

This new society has to replace the present, discriminatory one. The immediate problems of discrimination necessarily bear no relation to this new one.⁷⁴ The liberal egalitarians, like gender feminists, thus start from an abstract definition of a social problem defined as unequal, or discriminatory, or non-tolerant. In fact it bears little relevance to the particular society at hand. Social dysfunction or incoherence arise out of an ideal which liberal egalitarians concoct. Then this ideal is couched in moral, positive terms and defined as a need to be realized if a society is to be described as equal, just, non-discriminatory. The State, its laws and force can impose such an ideal of this order on actual society. This way egalitarian liberals, including gender feminists as well, want to make society into a single organization reflecting their ideal administered by the state.

But there is a paradox in such a liberal thinking, connected with two of its enshrined concepts of autonomy and toleration. For liberal egalitarians like Nuss-

⁷⁴ Idem, *The Liberal Mind*, Indianapolis 1963, p. 123–138.

baum, autonomy and choice over one's own life as a precondition of equality of relations between men and women is a sine qua non condition of just, and ultimately good life. Liberal egalitarianism of this version – and this is a dominant version of it today – defines a “good life” thoroughly in terms of autonomy, the view constitutionally sealed in the notorious judgment of the Supreme Court in “*Planned Parenthood v. Casey*” of 1992.⁷⁵ The core of such a definition is its insistence that forms of social life, to be equal and just, are to “be rooted in the self-conscious affirmations of autonomous individuals”.⁷⁶ One of the main proponents of this shape of liberalism of choice, or moral autocreation, Ronald Dworkin, allegedly harking back to the Kantian autonomy principle, but in fact resembling the nihilistic choice of desire justified by reason, wrote that

the most important task for which autonomy has been harnessed in contemporary political philosophy is to argue for a certain ideal of the liberal state... The root idea is that the state must recognize and acknowledge the autonomy of persons.⁷⁷

Rationality in such a case is tantamount to subjective choice, allegedly moral, but it is difficult to understand why it should be so. Thus, as David Gauthier writes,

the liberal individual is fully rational where rationality embraces both autonomy and the capacity to choose among possible actions on the basis of one's conception of the good as determined by one's reflective preferences... As an autonomous being, the liberal individual is aware of the reflective process by which her later selves emerge from her present self, so that her preferences are modified not in random or uncontrolled way, but in the light of her own experiences and understanding.⁷⁸

The most canonical of such liberal egalitarians beginning with anthropology of subjective individual moral autocreation is John Rawls, for whom

acting autonomously is acting from principles that we would consent to as free and equal rational beings... They are the principles that we would want everyone, including ourselves, to follow were we to take up together the appropriate general point of view. The original position defines its perspective.⁷⁹

⁷⁵ In this case Justices Anthony Kennedy, Sandra Day O'Connor, and David Souter authored an opinion that defended a woman's right to end her pregnancy by justifying that right by a new concept of liberty, in fact old but explicitly expressed in a Supreme Court opinion for the first time. They stated that “at the heart of liberty [as protected by the due process of clause] is the right to define one's own concept of existence, of meaning, and of the mystery of human life”. There is no word in the Constitution which of course acknowledges such a right rooted in a definite anthropological and ultimately ontological vision of who a human person is. In fact if this approach was accepted as a fact of life autonomous liberalism would have to allow all kinds of social practices, for instance of sharia law etc, to be recognized by law.

⁷⁶ B. A. Ackerman, *Social Justice and the Liberal State*, New Haven 1980, p. 196.

⁷⁷ R. Dworkin, *Autonomy*, [in:] *A Companion to Contemporary Political Philosophy*, ed. R. Goodwin, P. Petit, Oxford 1993, p. 361.

⁷⁸ D. Gauthier, *Morals by Agreement*, Oxford 1986, p. 346.

⁷⁹ J. Rawls, *A Theory of Justice*, Harvard 1971, p. 518; and *Political Liberalism*, New York 1993, p. 72.

Again John Raz states that “one common strand in liberal thought regards the promotion and protection of personal autonomy as the core of the liberal concern”.⁸⁰ And Alan Ryan adds that

the essence of liberalism is that individuals are self-creating, that no single good defines successful self-creation, and that taking responsibility for one’s life and making of it what one can is itself part of the good life.⁸¹

But if such an autonomous choice is part and parcel of a just, “good life”, with an equal and non-discriminatory society as its precondition, and individuals as Ryan defined them as “self-creating”, then it follows that such conditions when this choice of this autonomous life can be executed must be ensured, that is when absolute tolerance of every choice is as good as anyone else’s choice, a road to coercion of every organization which prevents such a choice being possible into providing conditions of it being absolute, a clear recipe for a nihilistic approach. This thus entails an enforcement of toleration, in fact an enforcement of a particular morality which is at the same time no morality at all. It is in fact a requirement that everyone should be committed to reason and morality of one particular sort stemming from a particular narrow anthropology taken for granted as axiomatic. This is contrary to the liberal claim that its model is neutral towards conceptions of a “good life” that its proponents hold.

Because if such a liberal morality of an autonomous choice has to be guaranteed, then in fact it has to be enforced, that is not to be tolerant or neutral towards competitive moral theories stemming from different anthropological concepts. Such a liberal society cannot be reasonable and neutral between conceptions of a “good life” that violate this basic moral identity rooted in an unrestrained autonomous choice. It cannot, in other words, treat with equal concern the protectors and violators of such a concept of a human being. For this reason such an

ideology of toleration is untenable. Egalitarians certainly tolerate some practices but equally certainly, they use the legal system to prohibit others. The real question is not whether toleration is good and enforcement bad but what, according to reason and morality should be tolerated and what should be enforced.⁸²

For Mansfield it is obvious that, despite disclaimers, the war on men, and women, when such a liberal ideal of nondiscrimination based on an unrestrained guarantee of choice of an autonomous subject is accepted, can never end. Not only it can never end, but it provokes a corresponding vengeful response from men themselves, and equally bitter women, the vicious circle of recriminations which is the state of the real relations between sexes today. This has baleful consequences

⁸⁰ J. Raz, *The Morality of Freedom*, Oxford 1986, p. 203.

⁸¹ A. Ryan, *Liberalism*, [in:] *Companion to Contemporary Political Philosophy...*, p. 304.

⁸² J. Kekes, *The Illusions of Egalitarianism...*, p. 186.

for both men and women, who after brutalizing their lives and dismantling the cultural protections of their respective spheres, not only began to shout at each other, but simply are utterly baffled what to do with this mess.

Mansfield thinks that the gender feminist approach in politics, law, education and culture constitutes, in its later stages, even if granted the nobility of intention and not ulterior motives of power play and identity politics, a lame effort not to implement just and equal rights society, but that it mainly tries to deal, lamely, with the consequences of the ill-concocted feminist revolution. The approach to the sexual revolution is exactly a case in point. Feminists, writes Mansfield

were radicals, inspired by Simone de Beauvoir, [who] thought it necessary to show that all sex differences were bourgeois conventions or stereotypes. They would show this not so much in regard to careers as in sex itself. They bought into the sexual revolution and decided that women could best show they are equal to men by becoming as predatory as the most wolfish men. This demonstration required the fallback on abortion in case something should go wrong and it gave new legitimacy to – this word is never used – spinsterhood. Single-parent families also gained respectability as women pressed their husbands with newly justifiable equality grievances, often leading to divorce. As sex goes up in social estimation love goes down. The trouble with love is that it narrows your options and endangers your independence. If you loved a man, you might actually want to put up with, even admire, his ways. Feminist women are unerotic.⁸³

This mess is caused by the fact that when there are

no sexual boundaries, either official or informal, the standard becomes the extreme. The traditional double standard of sexual conduct – more restricted for women than for men – has been replaced by the single standard of the predatory male... [For instance] according to one feminist professor of health – the head of a recent Harvard committee on student sexual relations – sex on campus should be ‘mature, respectful and life-affirming’. But instead it degrades both women and men. Women lose their sense of having a choice, to say nothing of ‘autonomy’, the supposed goal of sexual liberation. They feel compelled to offer a hook-up when they really want a date without expectation of sex. And yet they fear ‘getting a reputation’ for doing just what they are expected to do... College men, meanwhile degrade themselves by becoming callous. They behave like charmless Don Giovanni’s who cannot sing. They are indignant at girls who ‘want to spend time with guys during the day’. The nerve! One young man ... concludes that it is more acceptable for girls to be virgins than boys because girls are ‘a more docile gender’. His experience has led him to speak in generalities about women – something supposedly now forbidden – and even to discern the traditional double standard in the very practices that are intended to destroy it. The only thing he has learned from promoters of sexual liberation is to say ‘gender’ instead of ‘sex’ ... One is inclined to admire the students who attempt to meet the purity culture’s strict demands [existing at some Evangelical and Catholic colleges – AB]. But it is clear that such students often suffer deep anxiety in their search for a mate. The boys find it troublingly difficult to put off sex, and the girls are fearful that they will have failed in college if they do not get a “ring by spring” [of their senior year]. While students in the hook-up culture appear more promiscuous than they are, purity students appear more virtuous than they are.⁸⁴

⁸³ H. C. Mansfield, *Was Feminism Necessary?*, “Forbes”, September 15, 2008.

⁸⁴ H. C. Mansfield, *Hook-up or Shut Up*, “The Wall Street Journal”, April 29, 2008.

If, as one researcher concludes, sex is a yearning of the soul, something which goes contrary to the feminist slogan that sex is about power, then the secular colleges in the United States are a place of a frantic search for a “spiritual”, “meaningful” relationship, at least on the part of women. But for both sexes it is a chance for something bigger than the sheer animality of sex, whatever the appearances. But both sexes would like

to have a shot at the romance, from older times, they have read about. But romance requires holding back and no one [in such colleges] has a respectable reason for doing so ... Colleges find it risky ... to oppose the hook-up culture. They do not boast of it when parents visit, but they are happy to look the other way throughout the year. Their main concern is to be sure that they cannot be accused of treating men and women differently, and they do not care, or do not see, that the end result of sexual liberation is a culture that does harm to young people caught within it. [There is no easy way out], because there isn't one. But it makes us eager for something better than the going-on at colleges today, or anywhere else.⁸⁵

This yearning for something higher of which sex is just a tool and which the young call today romantic love is in fact a yearning – all cultures and religions have known it – for transcendental love, of which sex is just a gateway to an understanding that such an understanding, even fleetingly on this earth, is possible. And this is the very essence of happy life, something which the liberal feminist approach cannot even comprehend, let alone provide.

To radical feminists, all men are more or less subconsciously enemies or descendants of the enemies in need of constant self-justification, a worthy target upon which to project rage, more or less subconscious, for not being able to achieve all the positive goals women want, the latter still having inferior positions in society, while forced to accept men's game as a precondition of winning. As for men, who have been vilified and maligned and in principle have refused to defend themselves, they responded in another, less documented way. For them such a vilification of themselves has elicited in a large part a hidden contempt and an instrumental attitude towards women, with the sexual revolution as its main tool. This revolution in the plans of feminists was to liberate women, putting them on a par with men, but in fact liberated men, who for thousands of years dreamed of having unlimited access to women without any consequences and commitments.

Mansfield thinks that the sexual revolution, being a fact of life, was enormously aided by the gender feminist ideology. *Manliness* came out at such a time of Western civilization in which the utter ugliness of the gender feminist revolution both for men and women has become increasingly visible, with both sides not liking such a state of affairs and not knowing what to do about it. Something which was to bring equality, happiness and understanding, has brought mutual, deep mistrust, brutalization of sex between people, a demanding attitude towards each other and a torrent of programs on the part of government via law and edu-

⁸⁵ *Ibidem*.

cational system to impose in subtle ways some axioms of the feminist ideology, with affirmative action, divorce and custody proceedings, sexual harassment laws endemically biased against men.

Mansfield is a fierce critic of gender-neutral civilization, although he recognizes the fact of its existence. He points out that there are definitely traits of a contemporary civilization in which women have an increasing advantage due precisely to their different traits of character, as for instance the increasing bureaucratization of human conduct. But he realizes that with gender-neutral civilization, once it is being recognized as the only legitimate one, with the role models defined as traits of oppressive culture abandoned and in need of legal and cultural delegitimization, we are on the road to a total abolishment of human freedom, since such a civilization excludes just the diversity of mutual relations in the privacy of contacts between the sexes, and it has to elicit massive social engineering.

As a dogma the roles between the sexes are to be, in the radical feminist perspective, absolutely interchangeable and thus endlessly negotiable. But that requires social engineering of a society in which the endless search by the feminist police for instances where the sexes act differently is a constant threat. Such differences, by definition, can never be for gender feminists an expression of natural differences, but they must obviously constitute an instance of a criminal behavior in need of instant rectifying. For Mansfield, and he is here in the company of other wise people, the idiocy of such an endeavor is obvious. Not only is there no way the end point of such a reform can be envisioned, but what is being defined as equality in a gender-neutral civilization is an equality defined by feminist "experts" of this particular time and place, a kind of modern oligarchy imposing its particular view on a pluralistic society. What is supposed to be the widest possible extension of the equal and non-discriminatory concept of life between men and women turns out to be an ideal of a narrow group which sets up its standard of such a life.

Manliness is of course a notoriously difficult concept to define, and if manliness meant what the radical feminists wanted it to be, that is animal aggression, traditionally aimed at women, and also the feeling of brutal aggression for the sake of self-preservation or self-aggrandizement, then there would be no chance of defending it. But definitely there is a rule of thumb, corroborated by all research, that there are real differences between the sexes, though not in every case. Social science shows that sex differences are deeply rooted, since they are the product of evolution. That would not necessarily mean that such features are today any more needed, but Mansfield thinks that that is exactly the point. For him in general, manliness stands in for a universal human need to have some importance in the cosmos, and the human need to feel that humans matter on some deep level seems here only natural. But it is first of all a willingness to fight and defend oneself, and here to sacrifice for honor or for a cause – in all walks of life and in different garbs.

For this very reason, manliness constitutes a profoundly creative force in human relations,⁸⁶ even if it can also be a destructive force. It was a creative force, since the Western civilization in its intellectual and technological aspect was built mainly by men. This was done, of course, with the very strong and essential complementary role of women, but there is no doubt that manliness was an extremely powerful creative force, including the Christian aspect of it. It was also a destructive force, because there is inherently nothing in such a concept which ensures that a cause for which manly men sacrifice themselves is a genuinely praiseworthy one; in fact it harbors within it the possibility of real terror. But it does not follow from this that it would be well if we could just abolish manliness; in fact a sense of reality tells us that something might be profoundly wrong, and the confused and frustrated attitudes of contemporary women towards men exhibit this longing for something, which they willingly wanted to kill and in large measures have been successful in doing. Complementarity of the sexes has always been a great cultural power and a source of their mutual psychological safety rest.

Mansfield not only believes that there are separate natures of men and women and beyond the public sphere their mutual relationships should be left to them as private persona. He also believes that radical, gender-neutral civilization based on meticulous rights codes does not create equal society, but a society of warring parties vying for power, a situation which could not lead to a civilization in which men and women can finally rest in their mutual company. As there is manly nihilism which “tries to make self-assertion the core of the human good, womanly nihilism takes the opposite track and tries to suppress manliness”, with radical feminism here meaning such feminism “that seeks the essential problem not just as individual men behaving badly but as human [man’s] nature itself”.⁸⁷ Moreover, such a civilization is increasingly based on a hidden assumption, which radical feminists have sealed into dogma without realizing what has happened, that there are separate fates of men and women fighting for respect and rights within a culture which is increasingly questionable. If this assumption of a lack of separate, in fact, natures of men and women is even subconsciously taken for granted, then we have here the first civilization which looks at the relations between the sexes in such a way. All hitherto, so much different, civilizations and religions claimed exactly the opposite. There are of course no separate fates for men and women; this is one fate, although it is not easy to adjust both sexes to each other.⁸⁸ This assumption of eternal enmity and fight for rights and entitlements, aided with a torrent of clichés such as “respect”, “diversity”, “equality” at every sphere, kills the very logic, essence and hope of an opposite assumption without which the eternal thirst for romantic love and truly lasting commitment seems to be an illusion.

⁸⁶ See on that an interesting elaboration by C. Paglia, *The M.I.T Lecture*, in her *Sex, Art and the American Politics*, New York 1992, p. 273–274.

⁸⁷ T. Merrill, *Manliness*, “Society”, March–April 2007, p. 100.

⁸⁸ See on that profound truth K. Minogue, *How Civilizations Fail*, “The New Criterion”, April 2001, p. 12.

Non-radical gender feminists could object that Mansfield has chosen as an object of his critique the most extreme form of feminism, and for this very reason this critique does not hold true for other, less comprehensive and radical feminists. This might be true, of course, but Mansfield recognizes that manliness, as well as femininity, poses a perennial practical as well as theoretical problem. For this very reason, as one commentator observed, there will always be, as there has always, in fact, been in different civilizations,

a natural ground for something like feminism, a counterbalance to manliness. What that other feminism [what sort of gender feminism – AB] might look like is hard to say... His practical proposal – a prudent mixing of gender neutrality in public and recognition and encouragement of sex differences in private – leave quite a bit of room for ongoing controversy about the right place to draw the line. We should not however, allow this reasonable objection to blur Mansfield's deeper point. Radical feminism is usefully illuminating precisely because its utopianism is so extreme.⁸⁹

For this reason Mansfield makes his strongest theoretical statement about human nature, with different natures between men and women as its two inseparable dovetailed parts, on the basis of his reflections on radical feminism.

The revolution that made the gender-neutral society was not led by liberals but by women of the left, inspired ... by a womanly nihilism. Their heroine was Simone de Beauvoir, and behind her, Marx and Nietzsche. The feminists were highly critical of liberals and of liberal principles as well. Although the women's movement followed close upon the civil rights movement, it took a very different path. Civil rights leaders in the 1960s, above all Martin Luther King, called on America to be true to itself, to live by principles it had long proclaimed, and to cease the hypocrisy of talking one way and acting another. The feminists did no such things. Although of course they denounced male hypocrisy, they did not take liberal principles for a measure. Liberal principles were inherently faulty and inevitably hypocritical because they were formal...gave everyone a formal right to equality but deliberately refrained from examining whether formal equality was made actual. Under formal, liberal equality, feminists said, women were at an actual disadvantage...⁹⁰

In so arguing, feminists were echoing a long-standing complaint against liberal formalism, perhaps stated best in Karl Marx's *On the Jewish Question* (1844), that the unlovely informal practices of liberalism cancel out its published principles. Another way to put the objection is to say that in liberal society, the public, the sphere of the formal, is in fact governed by the private sphere so that the public promise of equality is betrayed. 'The personal is the political' is the feminist formula for that point: women have been confined and oppressed by the liberal distinction between personal or private and political or public, which was intended for concealment of the fraud. Moreover,

the formula suggests, the way to reform is by the same route as the betrayal – by politicizing the personal, but now in reverse, in favor of the gender-neutral society, for the purpose of ending oppression. Martin Luther King did not resort to this Marxist argument... [In general] feminism

⁸⁹ T. Merrill, *Manliness...*, p. 100.

⁹⁰ H. C. Mansfield, *Manliness*, p. 161, 163.

wants transcendence over previous definitions of womanhood. This is what it learned from Simone de Beauvoir, who learned transcendence from Nietzsche. But it wants transcendence for the sake of independence, and the trouble is that the two are not consistent. Independence means that you are satisfied with yourself; transcendence means that you are not. In relations between the sexes independence means that you do not need the other sex because you do not want to be dependent on it: transcendence means that you do need it because you want more than your own sex. Feminism is not to be blamed for this inconsistency. Not only feminists, but all human beings want completion and incompleteness in this way. Homosexuals would admit that society depends on heterosexuals. It is the utopian fervor of feminism that brings out the difficulty. Which is otherwise concealed by the complacency of conversion... The gender-neutral society does not know whether to ignore the sexual difference (independence) or abolish it (transcendence).⁹¹

But radical feminists' tinkering with human nature as such, so to obliterate differences between the sexes, depends in fact on the very thing which this feminism is trying to extirpate. This is so because, to begin a massive project of social engineering for the whole reconstruction of human nature or natures, in order to get rid of male aggressiveness, requires precisely deep reserves of human willfulness and aggressiveness as such. One has only to look at the constant wailing and aggressiveness of the programs of many radical feminists, often sponsored by public money, operating with phrases such as "wars on", "campaigns against", "crusades for" etc. But Mansfield, criticizing radical feminism, does it in the same way Socrates used the idealism of Glaucon and Adimantus in Plato's "Republic". In both cases utopia is crazy, it shows the limits of politics to realize human wild wishes of an absolute just society, meaning in fact a wish to liquidate an alienation between painful reality and a possible potential to overcome it. Utopianism, with all its crazy and self-contradictory ideas, can yet be useful as an object of study, since it is precisely utopianism which allows us to see the limits of politics. This study of an incurable, dangerous dream enable us to recognize, finally, the limits of human nature per se.

Mansfield is of course an equity feminist, recognizing the need for equal rights in the public sphere, rights as a choice, or better to say chance for a choice, not a demand to use it as a precondition of equal status. But he recognizes the danger of a situation in which blindness to the differences in natures between sexes excludes the possibility of a truly loving relationship based on trust and commitment, out of a deep understanding of a need for it, so as to lead a meaningful life. Such a relationship can never be defined, let alone formed, by feminist "experts" using state machinery, so as to impose their hidden agenda of power grab on countless lives of men and women making their lives miserable, and making sure that they cannot even dream of escaping such a dire predicament.

⁹¹ *Ibidem*.

Life Worth Living

If one attempts to find an ever present disposition of a character and soul which propels Mansfield's political philosophy, it is his conservatism, understood in its best and only proper meaning. Mansfield is a thinker in the great tradition of the classical and Christian quest for truth. The quest concerned more with the eternal than with the immediate, with this tradition of human intellectual and moral strivings which demands from human beings an effort to look incessantly up, not inside themselves, so to be better than they themselves, as human animals, are. This is a gargantuan civilizational, intellectual and ethical struggle which looks at human life as a cosmic drama of existence not of one's own choosing, but also not of one's own total autocreation, which is the other side of nihilistic despair.

Mansfield inspects a human life and the political life in it as a fascinating heroic endeavor to make one's life meaningful in a modern liberal society of the late welfare administrative state, trying to find out what a constitutional government of free people in it means. This is the state and society in which, increasingly, one can create one's own story as one likes and can do anything with it, and in which, because of exactly that, nothing in fact may matter any more. His endeavor is to seek and to restore gravity in political thinking, and as a consequence gravity of one's life, since, in fact, political philosophy is for him in the last resort a moral adventure. Mansfield analyzes and partially reworks a tremendous amount of traditional sources of classical and modern political philosophy, including his contemporary one of the hegemonic Western liberalism. The latter began with an individual and its autonomy principle, and it has provided us with the most common understanding of liberty, subconsciously taken for granted as the only conceivably frame for human existence.

It has constantly evolved and at this late point in time has increasingly been understood as a faculty of an autonomous "self", decoupled from tradition, culture, and last but not least, from metaphysics. But the end station of such a development might be the utter human loneliness and a pantheistic, quietismic despair. Mansfield refuses to give such a liberalism the last word on the human condition, being convinced that a rescue can also come from human capacity for recovery of what has been lost, through a thoughtful application of reason and heart. If Western liberalism, and with that the Western civilization, at this hour of unprecedented wealth and benevolence, is increasingly losing hope of providing any reason why it should persevere and why it should inspire anybody, it is because it has cut itself off from the throng of the human wisdom accumulated in time, that wisdom which political philosophy can help recover. Recover, not to solve the mystery of human existence which is beyond human mind to comprehend, but so to simply realize that it is possible to join ranks with the giants born before us, who knew that, as the great Aragorn, putting on his armor, stated to a terrified boy before the battle in the Helm's gorge: "There is always Hope!"

In fact, hope is the last and the very key word of Mansfield's opus. Hope is rational because it is metaphysical, and it is metaphysical because it is rational. Hope as a citizen of America, the America which Mansfield loves. He understands that what is at stake in contemporary America, and there is at this hour much at stake, is her proper understanding of herself, a necessary condition of a sense of self-identity and self-confidence, in the case of both an individual and the entire people. This proper self-understanding which America seems to have lost, since it has lost the innocence of this instinctual self-evidence of the words of this quintessentially American document, for a long time considered also universal, the Declaration of Independence of 1776. But if the self-evident assumptions of the Americans cannot sustain the nation any more than there is an urgent need to provide at once reasoned grounds for their essential affirmation that they are, because they are exceptional people, a uniquely free people.⁹²

Mansfield has provided such reasoned grounds in all his works. He is concerned with America, as was Tocqueville, since he knows by instinct that America is, somehow, a universal civilization and a loss of direction poses a danger of losing its identity, which as psychiatry defines it, is another name for insanity, when a theological name for such a loss is hell. Both for America and the world itself. In all that Mansfield is, in a particular sense, in love with America. He is part of this Burkean understanding that man is nothing if not of a particular place and time. In other words to be universal one has to be local first, since if universalism has to mean anything it has to mean something more than a cheap sentimentality of "loving" humanity, gestures which cost nothing but sell well in a contemporary politically correct market of "actions" or "wars on". To be universal means first to acquire the habits of responsibility, duty, affection, habits of bonds towards the immediate world, which then translate into the loving and ultimately true charity towards all. One has to learn to love somewhere, so as to be able to practice it, an Aristotelian impulse.

Thus, for Mansfield as a political philosopher and an intellectual in the classical sense of a lover of truth, America is an object of his great concern and a rigorous reasoned argument coupled inseparably with love. He would agree with St. Anselm, that what is really true and worth doing is to apply reason so to seek this, which one loves. And the more one loves, the more one tries to learn about it. This is Mansfield's America. But we need hope as citizens of the liberal world or citizens of the world, and here Mansfield immerses himself in the great tradition of giants before us, knowing the fallacy of thinking that we are the last, and that because of that, we can see through Being as better or much wiser than those who were our predecessors. In fact, what the intellectual and moral search is all about is an eternal return to the Sources, so we can understand that politics is not all to life and can never quench our thirst for fulfillment, however it tries and whatever calamities it may still bring to history.

⁹² G. Weigel, *Truths Still Held?*, "First Things", May 2010, p. 47.

But the ultimate meaning is somewhere else, and this gives us hope. Because, although existentially

the time of tribulation is upon us, and we now must make our way through its darkness, guided only by the waning lights of memory and the flickering flame of hope, not knowing when the night will end, [we are] sustained by the sacred assurance that whoever perseveres to the end shall be saved.⁹³

Harvey Mansfield chose a long time ago the path of knowledge so to acquire wisdom. Wisdom brings disillusionment, the mother of Hope. Wisdom is Hope, because it understands that reason without love is sterile as it is useless. But wisdom is reason with heart, and Mansfield knows, that in the end that means silence. Silence and magnitude.

⁹³ D. B. Hart, *A Perfect Game*, "First Things", August–September 2010, p. 55.